

**THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
OCTOBER 5, 2009
CORAL GABLES CITY HALL, 405 BILTMORE WAY, COMMISSION CHAMBER
CORAL GABLES, FLORIDA**

The meeting was scheduled to be held in Coral Gables City Hall Commission Chamber, Coral Gables, Florida, commencing at 8:00 a.m.

MEMBERS

O N D J F M A M J J A S APPOINTED BY:

Jorge Mora	P	X	X	C	P	E	P	P	P	C	A	P	Mayor Donald Slesnick
Tony Bello	P	P	P	C	P	P	P	P	P	C	P	P	Vice Mayor William H. Kerdyk, Jr.
Vivian De Las Cuevas-Diaz	P	X	X	C	X	X	X	X	X	C	E	P	Comm. Maria Anderson
Dr. Katherine De Blij	P	X	X	C	X	X	X	X	X	C	P	P	Comm. Rafael "Ralph" Cabrera, Jr.
John C. Lukacs, Esq., Chairperson	P	P	P	C	P	P	P	P	P	C	P	E	Comm. Wayne "Chip" Withers
Sergio Artigues, Architect	P	P	P	C	P	P	P	L	P	C	P	P	Board of Adjustment
Dr. Joseph W. Briggles, Vice Chair	P	P	P	C	P	P	P	P	P	C	P	P	City Manager

STAFF:

Elizabeth L. Gonzalez, Secretary
Joan Bailey, Court Reporter
Martha Salazar-Blanco, Zoning Official

A = Absent
C = Meeting Cancelled
E = Excused Absence
L = Late
P = Present
R = Resigned
X = Not on Board

THESE MINUTES DO NOT REQUIRE ANY ACTION BY THE CITY COMMISSION

The meeting was called to order at 8:00 a.m. by the Chairperson who announced that seven board members were present at that time. Four votes are necessary for any action thereof.

The Vice Chairperson announced the following rules of procedure for the hearing:

1. Staff recommendation.
2. The applicant will present his/her case.
3. If there are speakers in favor of the application, they will be given the opportunity to be heard.
4. If there are speakers against the application, they will be given the opportunity to be heard.
5. The applicant will be given the opportunity of a rebuttal.
6. Public hearing closed.
7. Board members discussion.
8. Motion, second and a vote on the application.

1. Roll Call

Roll call was taken. All Board members were in attendance.

2. Approval of the September 1, 2009 Recap

A motion was made by Mr. Bello, seconded by Dr. De Blij to approve the September 1, 2009 Recap. A resolution was passed by voice vote.

RESOLUTION NO. 4961-ZB

3. 8702-Z

Lot: 15, Block: 3
Coconut Grove Manor, PB/PG: 17/19
(230 Ridgewood Road)

George E. Peon, AIA – Applicant
Percy Martinez – Owner
George E. Peon, AIA – Architect, Engineer

A hearing was held on case no. 8702-Z.

Present: Percy Martinez – Owner; Peter Gonzalez – Attorney

APPLICANT'S PROPOSAL: In connection with the existing single-family residence at the subject property, the Applicant requests the following variances pursuant to the provisions of Ordinance No. 2007-01 as amended and known as the “Zoning Code.”

1. Grant a variance to allow the existing single-family residence to have a maximum floor area of three thousand, nine hundred ninety-two (3,992) square feet vs. the residence having a maximum three thousand, two hundred fourteen (3,214) square feet as stipulated by Section 4-101 (D) (9) of the Coral Gables “Zoning Code.”
2. Grant a variance to exceed the maximum floor area of an existing nonconforming structure vs. a structure that is nonconforming as to parking, height, setback, ground area coverage, floor area ratio, or other requirements other than use, shall not be altered or enlarged in a way that increases the extent of any nonconformity as stipulated by Section 6-303 of the Coral Gables “Zoning Code.”

All as shown on plans which have received Final approval from the Board of Architects. Such approval is for architectural design only and is not an endorsement of any variance being requested by the Applicant.

STAFF OBSERVATION: The Coral Gables “Zoning Code” has specific regulations, as well as design and performance standards, to ensure that the renovation of a residence is harmonious in proportion and scale to its existing neighborhood. The Applicant is requesting a variance to enclose an existing covered front terrace area, and to be allowed to exceed the maximum square foot floor area permitted for this property site.

This property is existing nonconforming with regard to the floor area factor. The maximum floor area permitted is three thousand, two hundred and fourteen (3,214) square feet. The existing floor area is three thousand, eight hundred and five (3,805) square feet, totaling an excess of five hundred and ninety-one (591) square feet. The proposed covered terrace enclosure would add one hundred eighty-seven (187) square feet for a new total floor area of three thousand, nine hundred and ninety-two (3,992) square feet, exceeding the maximum allowed floor area by seven hundred and seventy-eight (778) square feet.

The Coral Gables “Zoning Code” specifically prohibits any structure that is nonconforming as to floor area, to be enlarged in a way that increases the extent of the nonconformity. The parameters and intent of limiting the allowable floor area permitted is to control the mass of a structure in relation to the building site. This intent should not be compromised by granting the variance.

Staff recommends **DENIAL** of items no. 1 and 2.

STAFF RECOMMENDATION: Pursuant to **Section 3-806 STANDARDS FOR VARIANCES** of the “Zoning Code,” the Zoning Division Staff finds and the Board of Adjustment shall find as follows in regard to the Applicant's proposal as presented in their application for a variance from the provisions of Ordinance No. 2007-01, as amended and known as the “Zoning Code,” and makes the following recommendations:

1. That special conditions and circumstances do not exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. That the special conditions and circumstances would result from the actions of the Applicant.
3. That granting the variance requested will confer on the Applicant a special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of these regulations would not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and would not work unnecessary and undue hardship on the Applicant (see also definition of “necessary hardship”).
5. That the variance granted is not the minimum variance that will make possible the reasonable use of the land, building or structure.

6. That granting the variance will change the use to one that is not permitted in the zoning district or different from other land in the same district.
7. That the granting of the variance will not be in harmony with the general intent and purpose of these regulations and that such variance will be injurious to the area involved or otherwise detrimental to the public welfare.

Based on the findings in paragraphs 1 through 7 above, the Zoning Division Staff recommends **DENIAL** of Items 1 and 2 of the Applicant's proposal.

Testimony was given which indicated that these variances were being requested because of life safety issues. The property owners care for their elderly mother who lives with them and who suffers from Alzheimer disease. She is unable to climb up the stairs which lead to the residents' bedrooms. The Applicant is not asking to add additional square footage to the home, but rather, wishes to enclose the existing and otherwise useless porch area to create a living space for the elderly family member. It was also noted that this porch area has been, on occasion, a haven for homeless and/or dubious characters, posing a security and safety issue for the family. Letters of no objection from the neighbors were submitted into record.

A motion was made by Mr. Artigues, seconded by Mr. Bello to approve Items 1 and 2 of the Applicant's proposal.

RESOLUTION NO. 4962-ZB

**A RESOLUTION APPROVING A REQUEST FOR VARIANCES TO
ORDINANCE NO. 2007-01 AS AMENDED AND KNOWN AS THE
"ZONING COE," TO WIT:**

1. Grant a variance to allow the existing single-family residence to have a maximum floor area of three thousand, nine hundred ninety-two (3,992) square feet vs. the residence having a maximum three thousand, two hundred fourteen (3,214) square feet as stipulated by Section 4-101 (D) (9) of the Coral Gables "Zoning Code."
2. Grant a variance to exceed the maximum floor area of an existing nonconforming structure vs. a structure that is nonconforming as to parking, height, setback, ground area coverage, floor area ratio, or other requirements other than use, shall not be altered or enlarged in a way that increases the extent of any nonconformity as stipulated by Section 6-303 of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yeas" – Mr. Mora, Mrs. De las Cuevas-Diaz, Dr. De Blij, Mr. Artigues, Mr. Bello. "Nays" – Dr. Briggles and Mr. Lukacs.

4. 8709-Z

Lot: 6, Block: 20
Coral Gables Sec. E, PB/PG: 8/86
(1708 Ferdinand Street)

Federico E. Melo and Carmen E. Garcia – Applicant
Federico E. Melo and Carmen E. Garcia – Owner
Armando M. Rizo, AIA– Architect/Engineer

Deferred by Applicant.

5. BA-09-09-1963

Lots: 1 Thru 16 & Lots 24 Thru 36, Block: 31
Coral Gables Sec. L, PB/PG: 8/85
(55 Merrick Way, Bays 25-44)

Guilford & Associates, P.A. – Applicant
AHM Properties LLC – Owner
Luis Naya– Architect/Engineer

Deferred by Applicant.

6. Election of Chairperson and Vice Chairperson

A motion was made by Mr. Bello, seconded by Mr. Mora to elect Mr. Lukacs as Chairperson and Dr. Briggie as Vice Chairperson.

RESOLUTION NO. 4963-ZB

A RESOLUTION WAS PASSED AND ADOPTED DUE TO THE FOLLOWING ROLL CALL: “YEAS” – MR. MORA, DR. DE BLIJ, MRS. DE LAS CUEVAS-DIAZ, MR. ARTIGUES, MR. BELLO, DR. BRIGGLE, MR. LUKACS. “NAYS” – NONE.

7. Election of Board Appointee

A motion was made by Dr. Briggie and seconded by Mr. Lukacs to elect Mr. Artigues as a member by the Board-As-A-Whole.

RESOLUTION NO. 4964-ZB

A RESOLUTION WAS PASSED AND ADOPTED DUE TO THE FOLLOWING ROLL CALL: "YEAS" – MRS. DE LAS CUEVAS-DIAZ, MR. BELLO, MR. MORA, DR. DE BLIJ, , MR. ARTIGUES, DR. BRIGGLE, MR. LUKACS. "NAYS" – NONE.

Meeting adjourned at 9:30 a.m.

THE CITY OF CORAL GABLES
BOARD OF ADJUSTMENT

Elizabeth L. Gonzalez
Secretary