

THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
JUNE 1, 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

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

Jorge Mora	P	X	X	X	X	X	X	C	P	E	P	P	Mayor Donald Slesnick II
Tony Bello	P	C	E	P	P	P	P	C	P	P	P	P	Vice Mayor William H. Kerdyk, Jr.
Sharon Langer, Esq.	E	C	E	P	P	P	E	C	P	P	P	P	Comm. Maria Anderson
Jaime Pozo, Esq.	P	C	P	E	P	E	P	C	E	P	E	P	Comm. Rafael "Ralph" Cabrera, Jr.
John C. Lukacs, Esq., Chairperson	E	C	P	P	P	P	P	C	P	P	P	P	Comm. Wayne "Chip" Withers
Sergio Artigues, Architect	P	C	E	P	P	P	P	C	P	P	P	L	Board of Adjustment
Dr. Joseph W. Briggles, Vice Chair	P	C	P	P	P	P	P	C	P	P	P	P	City Manager

STAFF:

Elizabeth L. Gonzalez, Acting Secretary
Joan Bailey, Court Reporter

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 five board members were present at that time. Four votes are necessary for any action thereof.

The 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. Mr. Lukacs and Ms. Langer had given prior notification of their inability to attend the Board of Adjustment meeting.

A motion was made by Mr. Pozo, seconded by Mr. Bello to approve the absences of Mr. Lukacs and Ms. Langer. A resolution was passed by voice vote.

RESOLUTION NO. 4944-ZB

2. Approval of the May 4, 2009 Recap

A motion was made by Mr. Pozo, seconded by Mr. Artigues to approve the May 4, 2009 Recap. A resolution was passed by voice vote.

RESOLUTION NO. 4943-ZB

3. 8690-Z

Lot(s): 30, 31, 32 and 33, Block: 36
Coral Gables Section K, PB/PG: 8/33
(321 Miracle Mile)

Guilford & Associates, P.A. - Applicant
Coral Gables Enterprises LLC - Owner
Bellin & Pratt Architects, LLC - Architect/Engineer
Burton Hersh - Architect/Engineer

A hearing was held on case no. 8690-Z.

Present: Zeke Guilford, Esq., Guilford & Associates, P.A. - Applicant; Marshall Bellin, Bellin & Pratt Architects, LLC - Architect/Engineer

APPLICANT'S PROPOSAL: In connection with the landscaping requirements for the commercial building 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 five point nine (5.9) percent of the building site area landscape open space vs. ten (10) percent of the building site area landscape open space shall be provided as required by Section 5-1105 (C)(1)(a)(iv) of the Coral Gables "Zoning Code."
2. Grant a variance to allow two (2) shade trees vs. seven (7) shade trees shall be provided as required by Section 5-1105 (C)(2)(a).

All as shown on plans which have received Preliminary 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 Applicant is requesting two variances; the first variance is to allow five point nine (5.9) percent of the site area for landscape open space versus the required ten (10) percent of the site area for landscape open space; and the second variance is to plant two shade trees versus seven shade trees as required by the Coral Gables "Zoning Code." This property is located on Miracle Mile and is being remodeled. The proposed redevelopment cost exceeds fifty (50) percent of the total property value; therefore, the owner of the subject property must adhere to the current applicability threshold provisions within the "Zoning Code" to provide landscape improvements as noted above.

This is an existing building and the owner has made several attempts within the new design to incorporate the required landscaping by providing trees, shrubbery and pervious material. The majority of the buildings on Miracle Mile cover most of their lot area and directly abut the sidewalk. They do not have excess site area to provide extensive landscaping.

It would be detrimental to require the owner of the subject property to plant extensive landscape buffers in front of the retail space, and would not promote the pedestrian friendly environment which currently exists on Miracle Mile and the downtown area.

Staff finds the owner has incorporated an adequate amount of shrubbery, trees and other landscape features to satisfy the required open landscape and recommends **APPROVAL** of items 1 and 2 of the Applicant's proposal.

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 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 do not result from the actions of the Applicant.
3. That granting the variance requested will not confer on the Applicant a special privilege that is denied by this Ordinance to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of the "Zoning Code" would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the "Zoning Code," and would work unnecessary and undue hardship on the Applicant.
5. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That granting the variance will not change the use to one that is different from other land in the same district.
7. That the granting of the variance will be in harmony with the general intent and purpose of the "Zoning Code," and that such variance will not 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 APPROVAL of Items 1 and 2 of the Applicant's proposal.

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

RESOLUTION NO. 4945-ZB

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

1. Grant a variance to allow five point nine (5.9) percent of the building site area landscape open space vs. ten (10) percent of the building site area landscape open space shall be provided as required by Section 5-1105 (C)(1)(a)(iv) of the Coral Gables "Zoning Code."
2. Grant a variance to allow two (2) shade trees vs. seven (7) shade trees shall be provided as required by Section 5-1105 (C)(2)(a).

A Resolution was passed and adopted due to the following roll call: "Yeas" - Mr. Artigues, Mr. Pozo, Mr. Bello, Mr. Mora and Dr. Briggie. "Nays" - None. "Excused" - Ms. Langer and Mr. Lukacs.

4. 8699-Z

Lengthy Legal: 19-30 54 41 76.18 Acre, PB/PG: 46/81

Main Campus University of Miami TR 1 less beginning at northeast/left of Ave Apricala and northwest/left of Ponce de Leon Boulevard, PB/PG: 46/4, northeast along northwest/left of Boulevard 537.41 feet to POB northwesterly 290.77 feet
(1239-41 Dickinson Drive)

and

19-30 54 41 5.63 Acre, PB/PG: 46-81

Main Campus University of Miami amended part TR 1 beginning at northeast/left of Ave Apricala and northwest/left of Ponce de Leon Boulevard, PB/PG: 46-81, northeast along northwest/left of Boulevard 537.41 feet to POB northwesterly 290.77 feet
(5665 Ponce de Leon Boulevard)

Zeke Guilford, Esq., Guilford & Associates, P.A. - Applicant
University of Miami - Owner
N/A - Architect/Engineer

A hearing was held on case no. 8699-Z.

Present: Zeke Guilford, Esq., Guilford & Associates, P.A. - Applicant

APPLICANT'S PROPOSAL: In connection with the proposed wall mounted sign for the “Patti and Allan Herbert Wellness Center,” formerly known as the “George A. Smathers Student Wellness Center” building at the subject property, the Applicant requests the following variance pursuant to the provisions of Ordinance No. 2007-01 as amended and known as the “Zoning Code.”

1. Grant a variance to allow the wall mounted sign to have a maximum letter height of fourteen (14) inches vs. the wall mounted sign to have a maximum letter height of eight (8) inches as required by Section 4-202 (J) (3) of the Coral Gables “Zoning Code.”

All as shown on plans which have received Preliminary 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 Applicant is requesting a variance to install a wall mounted sign with individual, fourteen (14) inch high letters versus eight (8) inch high letters as allowed by the University of Miami Campus Area Development (UMCAD) Design Manual.

This building formerly known as the George A. Smathers Student Wellness Center is located on Dickinson Drive, and will be known as the Patti and Allan Herbert Wellness Center. The sign will only be visible from within the University of Miami Campus.

The Coral Gables “Zoning Code” provisions regulating signs allows a maximum of twenty-four (24) inches in height for letters on a building with a similar height.

Staff finds the proposed sign to be proportional to the façade on which it will be installed. It is a minimal request and is compatible with current signage on surrounding buildings within the campus.

Staff recommends **APPROVAL** of the Applicant’s proposal.

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 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 do not result from the actions of the Applicant.
3. That granting the variance requested will not confer on the Applicant a special privilege that is denied by this Ordinance to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of the “Zoning Code” would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the “Zoning Code,” and would work unnecessary and undue hardship on the Applicant.
5. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

6. That granting the variance will not change the use to one that is different from other land in the same district.
7. That the granting of the variance will be in harmony with the general intent and purpose of the "Zoning Code," and that such variance will not 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 **APPROVAL** of Item 1 of the Applicant's proposal.

A motion was made by Mr. Bello, seconded by Mr. Artigues to Approve Item 1 of the Applicant's proposal.

RESOLUTION NO. 4946-ZB

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

1. Grant a variance to allow the wall mounted sign to have a maximum letter height of fourteen (14) inches vs. the wall mounted sign to have a maximum letter height of eight (8) inches as required by Section 4-202 (J) (3) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yeas" - Mr. Pozo, Mr. Bello, Mr. Mora, Mr. Artigues and Dr. Briggie. "Nays" - None. "Excused" - Ms. Langer and Mr. Lukacs.

5. 8700-Z

Lot: 3, Block: Replat of Block 2
Hammock Lake Park, PB/PG: 79/27
(9100 Old Cutler Road)

David Wearne Johnson - Applicant
Daniel la Padula and Marsha la Padula - Owners
David Wearne Johnson, AIA- Architect/Engineer

A hearing was held on case no. 8700-Z.

Present: David Wearne Johnson, AIA- Applicant and Architect/Engineer

APPLICANT'S PROPOSAL: In connection with the proposed chain link fence for the single-family residence at the subject property, the Applicant requests the following variance pursuant to the provisions of Ordinance No. 2007-01 as amended and known as the "Zoning Code."

1. Grant a variance to allow a chain link fence between the main residence and the street (Hammock Lake Drive) vs. wire fences shall be allowed along the side property line to the rear corner of the building, closest to the side lot line as required by Section 5-2402 (B)(1) of the Coral Gables "Zoning Code."

STAFF OBSERVATION: The Applicant is applying for a variance to install a four (4) feet high chain link fence within the yard area, between the residential building and the street (Hammock Lake Drive). The Coral Gables “Zoning Code” prohibits any chain link fence, or portion thereof, to be installed in the area between the building and the street.

Although this property is irregular, due to the fact that the front of the house faces Old Cutler Road and the rear faces Hammock Lake Drive, the adjacent homes face Hammock Lake Drive and would not be allowed to install a chain link fence beyond the building into the yard area abutting a street. In addition, this fence was installed without approval and permit.

The Coral Gables “Zoning Code” does allow other types of fences and walls such as wrought iron, aluminum picket, masonry, coral rock or concrete to be installed within this area. Historically chain link fences have never been allowed within a yard area abutting a street.

Staff recommends **DENIAL** of the Applicant’s request.

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 Item 1 of the Applicant’s proposal.

Testimony was heard by the Applicant who explained that the subject property fronts two streets: Cutler Road and Hammock Lake Drive. When the Applicant purchased the property there was an existing residence and non-conforming pool on the lot surrounded by a six (6'-0") high wall. The Applicant demolished the residence but the pool and wall were left intact. After construction of the new residence was complete, the Applicant was sited by the Zoning inspector for not having a barrier fence around the pool (the existing six foot high wall could not be used as a barrier wall because the gate could not be adjusted to be self latching and self closing as required by code). In order to secure the pool with a minimum four feet high fence and self latching self closing gates, the applicant installed a chain link fence adjacent to the pool in a yard area directly abutting a street.

Discussion ensued and board members made the following observations: due to the fact that the existing pool was non-conforming and allowed to remain means that the pool area is considered the rear yard of the property; the property is an odd shaped lot with a very peculiar condition; and the fence is not visible from the street.

A motion was made by Mr. Bello, seconded by Mr. Artigues to Approve Item 1 of the Applicant's proposal with the condition that the Applicant install a four (4'-0") feet high hedge around the outside of the chain link fence to screen it from view.

RESOLUTION NO. 4947-ZB

A RESOLUTION APPROVING A REQUEST FOR A VARIANCE TO ORDINANCE NO. 2007-01 AS AMENDED AND KNOWN AS THE "ZONING CODE," TO WIT WITH THE CONDITION THAT THE APPLICANT INSTALL A FOUR (4'-0") FEET HIGH HEDGE AROUND THE OUTSIDE OF THE CHAIN LINK FENCE TO SCREEN IT FROM VIEW:

1. Grant a variance to allow a chain link fence between the main residence and the street (Hammock Lake Drive) vs. wire fences shall be allowed along the side property line to the rear corner of the building, closest to the side lot line as required by Section 5-2402 (B)(1) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yeas" - Mr. Bello, Mr. Mora, Mr. Pozo, Mr. Artigues and Dr. Briggie. "Nays" - None. "Excused" - Ms. Langer and Mr. Lukacs.

Ms. Gonzalez reported that beginning in July, Mr. Pozo will no longer be serving on the Board of Adjustment. Mr. Pozo's commitment and dedication as a board member was acknowledged. Ms. Gonzalez also reported that due to board members' schedules, it was difficult to guarantee a quorum for the July meeting.

Mr. Pozo made a motion to defer the next Board of Adjustment meeting to August. The motion was seconded by Mr. Artigues and a resolution was passed by voice vote.

RESOLUTION NO. 4948-ZB

Meeting adjourned at 8:23 a.m.

THE CITY OF CORAL GABLES
BOARD OF ADJUSTMENT

Elizabeth L. Gonzalez, Acting Secretary