

THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
APRIL 5, 2010
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 F M A M J J A S O N D APPPOINTED BY:**

Jorge Mora	C	C	P	P										Mayor Donald Slesnick
Tony Bello	C	C	P	P									Vice Mayor William H. Kerdyk, Jr.	
Vivian De Las Cuevas-Diaz	C	C	P	P									Comm. Maria Anderson	
Dr. Katherine De Blij	C	C	P	P									Comm. Rafael "Ralph" Cabrera, Jr.	
John C. Lukacs, Esq., Chairperson	C	C	E	P									Comm. Wayne "Chip" Withers	
Sergio Artigues, Architect	C	C	P	P									Board of Adjustment	
Dr. Joseph W. Briggle, Vice Chair	C	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 8:05 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 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 members were present.

2. Approval of the March 1, 2010 Recap

A motion was made by Mr. Bello, seconded by Dr. De Blij to approve the March 1, 2010 Recap. A resolution was passed by voice vote.

RESOLUTION NO. 4982-ZB

3. BA-09-12-3153

Lot: 8 less W 50 FT & ALL Lots 9 to 11, Block: 237
Riviera Sec. 11, PB/PG: 82/34
(533 Sunset Road)

W. Tucker Gibbs, Esquire – Applicant

Ovidio & Dulce Viera – Owner
Jose A. Jimenez – Architect/Engineer

A hearing was held on case no. BA-09-12-3153.

Present: W. Tucker Gibbs, Esquire – Applicant

APPLICANT'S PROPOSAL: In connection with the existing perimeter fence wall for the single-family residence at the subject property, the Applicant requests the following variance pursuant to the provisions of Ordinance No. 1525 as amended and known as the “Zoning Code.”

1. Grant a variance to allow the existing perimeter fence wall to be five (5'0") feet high vs. no other wall or fence shall be permitted over four (4'0") feet high from the established grade, or over four (4'0") feet high from the actual ground level at such wall or fence, whichever is higher as allowed by Section 16-2 (b) of the Coral Gables “Zoning Code.

STAFF OBSERVATION: The Applicant is requesting a variance to maintain a perimeter fence wall along Veronese Avenue which was built at five (5'0") feet high. The construction of this fence wall deviates from the approved permit which illustrated the fence to be built at a maximum height of four (4'0") feet as allowed by the Zoning Code.

Some variations do exist with the grade elevations of the property. However, this is not an anomaly and there are no exceptional or extraordinary circumstances or conditions applicable to the property. Allowing the fence to remain at a height of five (5'0") feet will not be consistent

with a uniform character and established pattern of development as supported by the Zoning Code. In addition, maintaining a five (5'0") feet high fence would confer a privilege not afforded to other properties.

Approving the fence after deviating from the approved permit, could potentially set a precarious precedent. Other alternatives could have been explored and the fence could have been built to conform to the Zoning Code's maximum allowed height of four (4'0") feet high for fences and walls.

The Zoning Division staff recommends **DENIAL** of Item No. 1.

STAFF RECOMMENDATION: Pursuant to **Section 24-7 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 do 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 not 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 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 **DENIAL** of Item No. 1. of the Applicant's proposal.

After lengthy discussion between the Board Members, Tucker Gibbs and City Staff with regard to grade elevations, the Board Members requested a survey illustrating the current elevations of the property be submitted for further review.

A motion was made by Dr. De Blij and seconded by Mrs. De Las Cuevas-Diaz to defer Item 1 of the Applicant's request.

RESOLUTION NO. 4985-ZB

**A RESOLUTION DEFERRING A REQUEST FOR A VARIANCE TO
ORDINANCE NO. 1525 AS AMENDED AND KNOWN AS THE
“ZONING CODE,” TO WIT:**

1. Grant a variance to allow the existing perimeter fence wall to be five (5'0") feet high vs. no other wall or fence shall be permitted over four (4'0") feet high from the established grade, or over four (4'0") feet high from the actual ground level at such wall or fence, whichever is higher as allowed by Section 16-2 (b) of the Coral Gables “Zoning Code.

A Resolution was passed and adopted due to the following roll call: “Yeas” – Dr. Briggle, Mr. Mora, Mrs. De Las Cuevas-Diaz, Dr. De Blij, Mr. Artigues, Mr. Bello, Mr. Lukacs. “Nays” – None.

4. BA-10-01-3908

Lots: 5 Thru 14, Block: 28
Coral Gables Douglas Section, PB/PG: 25/69
(1300 Ponce de Leon Blvd.)

Hope W. Calhoun – Applicant
Ponce Trust, LLC – Owner

A hearing was held on case no. BA-10-01-3908.

Present: Hope W. Calhoun - Applicant

APPLICANT'S PROPOSAL: In connection with the proposed signage for the tenant “Chase” in the existing 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 signs on awnings vs. awning or canopy signs are prohibited if tenant signs are provided as allowed by Section 5-1904 of the Coral Gables “Zoning Code.”

STAFF OBSERVATION: The Zoning Code is specific in not allowing a tenant sign on the awnings if the business establishment has a tenant sign on the building. The Applicant is requesting to install signs on the awnings in addition to the two (2) existing tenant building signs.

The building is located on the corner of Ponce De Leon Boulevard and Salamanca Avenue and the tenant “Chase” currently has two (2) signs. One sign is on the South façade facing vehicular and pedestrian traffic traveling Northbound and a secondary sign is on the East façade facing vehicular and pedestrian traffic traveling Westbound. The proposed signs on awnings would be in the same South and East façade as the current building signs.

Signs are intended and utilized as a means of identifying a specific business location. The signs currently on the building identify the business for motorists and pedestrians.

After careful review of the plans and application, staff has determined that neither the building, nor the lot is unusual in shape. There are numerous businesses with similar conditions which comply with either signs on the building or signs on the awnings and do not utilize both options. Staff cannot find an unnecessary hardship to approve the additional signage on the awnings.

The Zoning Division Staff recommends **DENIAL** of Item No. 1.

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 do 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 not 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 No. 1 of the Applicant's request.

As a result of a tie vote at the April 5, 2010, hearing, this case was presented again before the Board.

Attorney Hope Calhoun representing Chase Bank stated their main hardship was being located in a Mixed Use building which made it difficult for customers to identify their location.

Chase occupied this space before the building was demolished and rebuilt. At that time they had more signage than is now allowed under the current Zoning Code's regulations.

When the new building was opened and Chase took occupancy, the signage currently allowed and installed is much less and smaller than what was on the building before.

Representatives from Chase met with City Staff and discussed alternative and allowable signage; however none were a viable option. Due to their entry being under a breezeway and set back a distance from the street, the signage allowed would not be visible. However, the awning signs would clearly and easily identify their locale.

Martha Salazar-Blanco, Zoning Official stated that under the previous Zoning Code's signage regulations Chase did have more signage and was allowed to have both building signs and awning signs. She also noted their signage has been diminished versus the signs on the building before. Ms. Salazar-Blanco said Staff was willing to support and recommend approval if the maximum letter height on the awnings would not exceed four (4") inches.

Dr. Briggle also proposed the approval be amended to include all existing building signs and any replaced building signs for Chase would not exceed the current letter height of twelve (12") inches.

A motion was made by Dr. De Blij, seconded by Mr. Bello to approve Item 1 of the Applicant's request.

1. Grant a variance to allow signs on awnings vs. awning or canopy signs are prohibited if tenant signs are provided as allowed by Section 5-1904 of the Coral Gables "Zoning Code."

The variance for the signs on awnings was granted with the following conditions:

1. The maximum letter height on the awning signs shall not exceed 4 inches.
2. The letter height shall not exceed 12 inches for the existing building signs or any replacement building signs for the tenant "Chase Bank" if the option of installing signs on awnings is exercised.

RESOLUTION NO. 4983-ZB

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

A Resolution was passed and adopted due to the following roll call: “Yea” – Mr. Mora, Mrs. De Las Cuevas-Diaz, Mr. Artigues, Dr. Briggle, Mr. Lukacs. “Nay” – Dr. De Blij, Mr. Bello.

Mr. Lukacs explained he was unable to attend last month’s meeting due to an unforeseeable emergency.

A motion was made by Dr. Briggle, seconded by Mr. Bello to excuse Mr. Lukacs’ absence in the March 1, 2010 meeting.

A Resolution was passed and adopted due to the following roll call: “Yea” – Dr. Briggle, Mr. Mora, Dr. De Blij, Mr. Artigues, Mr. Bello. “Nay” – None.

RESOLUTION NO. 4984-ZB

Meeting adjourned at 9:27a.m.

**THE CITY OF CORAL GABLES
BOARD OF ADJUSTMENT**

Elizabeth L. Gonzalez
Secretary