

THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
APRIL 7, 2008
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

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

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

STAFF:

Elizabeth Gonzalez, Acting Secretary
 Martha Salazar-Blanco, Zoning Administrator
 Dona Lubin, Assistant City Manager

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 six 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. McGrane arrived at 8:02 a.m.

2. Approval of the January 7, 2008 Recap

A motion was made by Dr. Briggie, seconded by Mrs. Langer to approve the January 7, 2008 Recap. A resolution was passed by voice vote.

RESOLUTION NO. 4883-ZB

3. 8659-Z

Lot(s): 1, 2 and 14 through 15, Block: 113
Coral Gables Country Club Section 5, PB/PG: 23-55
(4701 Santa Maria Street)

F.W. Zeke Guilford, Esq., Guilford & Associates, P.A. - Applicant
Billy Dale Vessels and Susanne Wilson Vessels, Trustee - Owner(s)
N/A - Architect

A hearing was held on case no. 8659-Z.

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

APPLICANT'S PROPOSAL: In connection with the proposed building site determination at the subject property, the Applicant requests the following appeal pursuant to the provisions of Ordinance No. 1525 as amended and known as the "Zoning Code."

1. Consider an appeal from a decision made by City Staff in regard to a Building Site Determination pursuant to Section 3-604 of the Coral Gables "Zoning Code."

STAFF OBSERVATION: The applicant is requesting to appeal an administrative decision made by Martha Salazar-Blanco, Zoning Administrator, with reference to a building site determination.

After extensive research and study of the subject property, the determination was based on the following criteria as stated in the Coral Gables "Zoning Code" Section 3-206 (E) (2) building site requirements. This section states wherever there may exist a single-family residence(s), duplex building(s) or any lawful accessory building(s) or structures(s) which was heretofore constructed on property containing one (1) or more platted lots or portions thereof, such lot or lots shall thereafter constitute only one (1) building site and no permit shall be issued for the construction of more than (1) single-family residence or duplex building. Such structures shall include but not be limited to swimming pools, tennis courts, walls, fences or other at grade and above ground improvements. Only one (1) single-family residence or duplex shall be constructed upon any one (1) building site having not less than the minimum street frontage required by this code.

Another criteria used in the determination was based on the analysis of the permit history for the subject property, which identifies several permits issued noting all lots 1, 2, 14 and 15, Block 113.

An additional criterion which was considered in the determination, was the legal description of the property which includes lots 1, 2 and 14 thru 15. The property has one folio number and has been maintained as one site for many years. The property is taxed as one building site.

The Zoning Division staff recommends **DENIAL** of the Applicant's request.

Mr. Guilford presented the Board with the grounds he believes make Lots 14 and 15 a buildable site. Referring to Section 3-206 of the "Zoning Code," he argued that Lots 14 and 15 comply with all of the requirements, therefore qualifying them as building site. He also stated that Staff has not established a reasonable explanation for denying this application.

Board members made mention of the existing hedge separating Lots 1 and 2 from Lots 14 and 15, as well as a sprinkler system noticeable from the photos provided, and asked Staff for clarification on whether or not this constitutes a building site.

Martha Salazar-Blanco, Zoning Administrator explained the City's interpretation of the "Zoning Code" as stipulated in Section 3-206(E)(2), where as a structure exists on this property that contains one or more platted lots (Lots 1 and 2, 14 and 15). Auxiliary uses at grade level or above ground improvements are apparent and unite these lots. Permits issued and tax cards have treated these four lots as one building site via one folio number.

After much discussion regarding the interpretation of Section 3-206 of the "Zoning Code," and if in fact Staff has provided evidence to support the argument that this property consisting of four lots constitutes one building site, the consensus of the Board was to send this item back for Staff's specificity on denial.

A motion was made by Mr. McGrane, seconded by Mr. Pozo to defer this item until Staff can produce more specificity on basis for denial.

RESOLUTION NO. 4884-ZB

**A RESOLUTION DEFERRING A REQUEST FOR AN APPEAL TO ORDINANCE NO. 1525
AS AMENDED AND KNOWN AS THE "ZONING CODE," TO WIT:**

1. Consider an appeal from a decision made by City Staff in regard to a Building Site Determination pursuant to Section 3-604 of the Coral Gables "Zoning Code."

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

After the vote was taken, Mr. Guilford asked that the Board entertain a motion to reconsider the motion to defer, due to a contractual obligation of his client, and vote on a motion for approval or denial.

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The Chairperson asked members of the board if they wished to reconsider, with the understanding that the applicant wishes to do so, thus waving any argument that the record was incomplete or would not otherwise sufficiently support a decision by this board. There being no objection, the following motion was made:

Mr. McGrane made a motion, seconded by Dr. Briggie to rescind the previous motion deferring this item per Applicant's request, and reconsider a new motion. The motion passed by voice vote.

RESOLUTION NO. 4885-ZB

Before entertaining a motion to approve or deny, it was pointed out that persons in favor or in opposition of this application have not been given a chance to comment and should have the opportunity to do so before moving forward. This matter was briefly deferred until interested parties could return to voice their approval or concerns.

Once the hearing on Case 8659-Z resumed, testimony from the Applicant's neighbor Louis A. Sabia was heard, in which he stated that the subject property was never used, and that an addition to the residence constructed years ago was done so under an agreement that the lot (Lots 14 and 15) next to it remain buildable.

Mr. Greenwald testified in support of the application and stated that the survey shows a clear intent of the builder (of the Vessle's residence) to stay within the lot (Lots 1 and 2) setbacks in order to preserve the other lot (Lots 14 and 15) for future development.

Testimony was also heard in opposition of the application from Michael Stephens who stated that this is not the correct venue to hear this application. Mr. Stephens believes this to be a lot separation issue, and offered that the Planning and Zoning Board should be the Board to rule this case. Mature trees on the property were also an area of his concern, and he requested that the Board place a caveat on the motion making Lots 14 and 15 a single buildable site, should a motion for approval pass.

In rebuttal, Mr. Guilford stated that this Board is the proper venue to hear an appeal of a decision made by City Staff (Zoning Dept.), and offered that there would be no objection to a ruling which would make Lots 14 and 15 one building site that could not be separated at a later date.

A motion was made by Ms. Langer, seconded by Mr. Artigues to approve Lots 14 and 15 as one building site, with the caveat that it would then have a Unity of Title between the two lots and always remain a 100'X100' lot.

After a motion for approval was made and prior to roll call on the motion, Mr. Lukacs summarized his view of the foregoing and stated that the Vessel's residence was constructed on property which consisted of four lots, and building improvements such as the sprinkler system and other improvements on lots 14 and 15 do in fact exist. When the regulations as a whole are considered, specifically in Subsection 2, it identifies a building site as being property, on which property consisting of one or more lots, on which a structure has been constructed.

It is the opinion of Mr. Luckas that this property is owned by a single owner, therefore, having unity of ownership; it is a single-family residence which gives a unity of use to all four lots (Lots 1 and 2, 14 and 15); and it has physical continuity. Given his personal and legal experience in the laws that relate what constitutes a *parent tract*, it appears to Mr. Luckas that all of those unities apply, and that 14 and 15 should not be deemed a separate building site.

RESOLUTION NO. 4887-ZB

A RESOLUTION DENYING A REQUEST FOR AN APPEAL TO ORDINANCE NO. 1525 AS AMENDED AND KNOWN AS THE "ZONING CODE," TO WIT:

1. Consider an appeal from a decision made by City Staff in regard to a Building Site Determination pursuant to Section 3-604 of the Coral Gables "Zoning Code."

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

4. 8663-Z

Lot: 8, Block: 21
Cocoplum Section 2 Plat E, PB/PG: 131-76
(8 Tahiti Beach Island Road)

Laura L. Russo, Esq., Russo & Baker, P.A. - Applicant
Charles E. Cobb, Jr. and Sue M. Cobb - Owner(s)
Denis K. Solano, Coastal Development Consultants, Inc. - Architect/Engineer

A hearing was held on case no. 8663-Z.

Present: Laura L. Russo, Esq., Russo & Baker, P.A. - Applicant

APPLICANT'S PROPOSAL: In connection with the proposed watercraft lifts for the existing single-family residence at the subject property, the Applicant requests the following variance(s) pursuant to the provisions of Ordinance No. 1525 as amended and known as the "Zoning Code."

1. Grant a variance to allow two proposed watercraft lifts vs. only one (1) set of watercraft lift shall be permitted for the existing single-family residence as provided for by Section 5-805 (D) 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 allow two watercraft lifts versus only one watercraft lift allowed.

The subject property abuts Biscayne Bay and has over 700 feet of water frontage. After careful review of the subject property, staff has determined the proposed watercraft lifts adhere to the required setbacks and the required unobstructed navigable waterway width of a minimum seventy-five (75'-0") feet.

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On January 9, 2002 the City Commission approved, on First Reading, an Ordinance amending the subject section of the City's "Zoning Code," providing for two (2) davits to be allowed on properties with over 100 feet of water frontage. The item was approved unanimously but failed to return for the required second reading to amend the Code. The Planning Department is presently reviewing and incorporating this amendment into the Coral Gables "Zoning Code."

In addition, currently under Site Specific Zoning Regulations for Gables Estates, a second set of davits, watercraft lifts and floating watercraft lifts is permitted on properties with water frontage of one hundred (100'-0") feet or more.

The Zoning Division staff finds that based on the previous facts, and due to the expansive water frontage abutting Biscayne Bay, this property can easily accommodate the two watercraft lifts and still be in harmony with the surrounding properties.

The Zoning Division staff recommends **APPROVAL** of the Applicant's request with the condition of obtaining Final approval from Department of Environmental Resources Management.

STAFF RECOMMENDATION: Pursuant to Section **24-7 VARIANCES** of the "Zoning Code," the Zoning Division staff finds as follows in regard to the Applicant's proposal as presented in their application for a variance from the provisions of Ordinance No. 1525, 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 (see also definition of "necessary hardship").
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. McGrane, Seconded by Mr. Bello to approve item 1 of the Applicant's proposal.

RESOLUTION NO. 4886-ZB

A RESOLUTION APPROVING 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 two proposed watercraft lifts vs. only one (1) set of watercraft lift shall be permitted for the existing single-family residence as provided for by Section 5-805 (D) of the Coral Gables "Zoning Code."

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

Meeting adjourned at 9:12 a.m.

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Elizabeth L. Gonzalez
Acting Secretary