

THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
AUGUST 3, 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	A	S	O	N	D	J	F	M	A	M	J	J	APPOINTED BY:
Jorge Mora	A	X	X	X	X	C	P	E	P	P	P	C	Mayor Donald Slesnick II
Tony Bello	P	P	P	P	P	C	P	P	P	P	P	C	Vice Mayor William H. Kerdyk, Jr.
Vivian De Las Cuevas-Diaz	E	X	X	X	X	C	X	X	X	X	X	C	Comm. Maria Anderson
Dr. Katherine De Blij	P	X	X	X	X	C	X	X	X	X	X	C	Comm. Rafael "Ralph" Cabrera, Jr.
John C. Lukacs, Esq., Chairperson	P	P	P	P	P	C	P	P	P	P	E	C	Comm. Wayne "Chip" Withers
Sergio Artigues, Architect	P	P	P	P	P	C	P	P	P	L	P	C	Board of Adjustment
Dr. Joseph W. Briggle, Vice Chair	P	P	P	P	P	C	P	P	P	P	P	C	City Manager

STAFF:

Elizabeth L. Gonzalez, Acting 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 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. Mora was not in attendance and Ms. De Las Cuevas-Diaz had given prior notification of her inability to attend the Board of Adjustment meeting.

A motion was made by Mr. Bello, seconded by Dr. Briggle to approve the absence of Ms. De Las Cuevas-Diaz. A resolution was passed by voice vote.

RESOLUTION NO. 4956-ZB

2. Approval of the June 1, 2009 Recap

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

RESOLUTION NO. 4949-ZB

3. 8693-Z

Block: 255

Coral Gables Riviera Section 12, PB/PG: 28/35
(950 Hardee Road)

Julie L. Blanco - Applicant
Alexander Havenick - Owner
Davis Engineers - Architect/Engineer

A hearing was held on case no. 8693-Z.

Present: Julie L. Blanco, Davis Engineers - Applicant and Architect/Engineer

APPLICANT'S PROPOSAL: In connection with the swimming pool, pool deck and pool equipment for the existing 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 proposed swimming pool and pool deck for the existing residence to be located in the area between the street and the main residential building or any part thereof vs. no accessory building or structure may be located in the area between the street and the main residential building or any part thereof as required by Sections 4-101 (D) (5) (a) and 5-101 (B) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed swimming pool and pool deck for the existing residence to be located closer to the front or side street of a lot or building site than the main or principal building vs. in no case shall an accessory building or structure be located closer to the front or side street of a lot or building

site than the main or principal building as required by Sections 4-101 (D) (5) (b), 5-101 (C), 5-108 (D) (1) and 5-108 (I) of the Coral Gables "Zoning Code."

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3. Grant a variance to allow the proposed swimming pool for the existing residence to be visible in both the front and side street elevations vs. on corner lots, swimming pools may be located within an L of the building provided that such L is not visible in both the front and side street elevations as required by Section 5-108 (H) of the Coral Gables "Zoning Code."
4. Grant a variance to allow the proposed swimming pool for the existing residence to have setbacks less than the required setbacks for the residence vs. the proposed swimming pool shall provide the same required setbacks for a residence located on the parcel where the pool is to be constructed as required by Section 5-108 (D) (1) of the Coral Gables "Zoning Code."
5. Grant a variance to allow the proposed swimming pool for the existing residence to have a side street setback (Hardee Road) of eleven (11'-0") feet vs. the proposed swimming pool to maintain a minimum side street setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables "Zoning Code."
6. Grant a variance to allow the proposed pool deck for the existing residence to have a side street setback (Hardee Road) of seven feet six inches (7'-6") vs. the proposed pool deck to maintain a minimum side street setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables "Zoning Code."
7. Grant a variance to allow the proposed swimming pool for the existing residence to have a street setback at the radial intersection of Hardee Road and Manati Avenue of ten (10'-0") feet vs. the proposed swimming pool to maintain a minimum setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables "Zoning Code."
8. Grant a variance to allow the proposed pool deck for the existing residence to have a street setback at the radial intersection of Hardee Road and Manati Avenue of five feet four inches (5'-4") vs. the proposed pool deck to maintain a minimum setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables "Zoning Code."
9. Grant a variance to allow the proposed pool equipment for the existing residence to have a side street setback (Manati Avenue) of fourteen feet six inches (14'-6") vs. the proposed pool equipment to have a side street setback of fifteen (15'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) 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 Applicant is requesting several variances which pertain to the proposed swimming pool and pool deck. This irregular shaped property is bordered by Hardee Road, Cellini Street and Manati Avenue, creating a very unique situation, thereby limiting the available space to build a swimming pool

and deck.

Items number 1, 2 and 3 are variance requests for the swimming pool and pool deck. The Coral Gables “Zoning Code” stipulates the following: no accessory building or structure may be located in the area between the street and the main residential building or any part thereof, no accessory building or structure may be located closer to the front or side street of a lot or building site than the main or principal building and swimming pools may be located within an “L” of the building provided that such “L” is not visible in both the front and side street elevations.

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Items number 4, 5, 6, 7 and 8 pertain to the swimming pool and pool deck encroaching into the required street setback areas. The distances from the swimming pool and pool deck to the property boundaries vary due to the configuration of the lot and the location of the pool. The closest proposed distance is ten (10'-0") feet from the swimming pool to the radial intersection property line and five feet four inches (5'-4") from the pool deck to the radial intersection property line.

The proposed swimming pool is seventeen feet four inches (17'-4") in width by thirty-one feet ten inches (31'-10") in length, not including the spa portion; this pool design is much larger than an average pool.

After reviewing the plans for the swimming pool and pool deck on this particular site, Staff notes that there would be a favorable recommendation for the swimming pool and deck in this proposed area if an alternate design, with a smaller size pool and deck that comply with the required setback areas, were presented; however, due to the proximity of the swimming pool and deck encroachment into the required setback areas, Staff recommends **DENIAL** of items no. 1 through 8.

Item no. 9 is a variance request to allow the pool equipment to encroach into the street setback area on Manati Avenue. Staff feels that there are alternate locations in which to place the pool equipment that comply with the minimum setback requirements. Staff is therefore recommending **DENIAL** of item no. 9.

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, 2, 3, 4, 5, 6, 7, 8 and 9 of the Applicant's proposal.

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It was noted that the property in question does pose some hardships because the lot has no rear yard area due to its configuration and relationship to the front and side streets; however, the Applicant has an opportunity to design a smaller pool and pool deck area that would have much less of an impact on the existing setbacks.

A motion was made by Mr.Bello, seconded by Dr. De Blij to defer Items 1 through 9 of the Applicant's proposal.

RESOLUTION NO. 4950-ZB

**A RESOLUTION DEFERRING 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 the proposed swimming pool and pool deck for the existing residence to be located in the area between the street and the main residential building or any part thereof vs. no accessory building or structure may be located in the area between the street and the main residential building or any part thereof as required by Sections 4-101 (D) (5) (a) and 5-101 (B) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed swimming pool and pool deck for the existing residence to be located closer to the front or side street of a lot or building site than the main or principal building vs. in no case shall an accessory building or structure be located closer to the front or side street of a lot or building site than the main or principal building as required by Sections 4-101 (D) (5) (b), 5-101 (C), 5-108 (D) (1) and 5-108 (I) of the Coral Gables "Zoning Code."
3. Grant a variance to allow the proposed swimming pool for the existing residence to be visible in both the front and side street elevations vs. on corner lots, swimming pools may be located within an L of the building provided that such L is not visible in both the front and side street elevations as required by Section 5-108 (H) of the Coral Gables "Zoning Code."
4. Grant a variance to allow the proposed swimming pool for the existing residence to

have setbacks less than the required setbacks for the residence vs. the proposed swimming pool shall provide the same required setbacks for a residence located on the parcel where the pool is to be constructed as required by Section 5-108 (D) (1) of the Coral Gables “Zoning Code.”

5. Grant a variance to allow the proposed swimming pool for the existing residence to have a side street setback (Hardee Road) of eleven (11'-0") feet vs. the proposed swimming pool to maintain a minimum side street setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables “Zoning Code.”
6. Grant a variance to allow the proposed pool deck for the existing residence to have a side street setback (Hardee Road) of seven feet six inches (7'-6") vs. the proposed pool deck to maintain a minimum side street setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables “Zoning Code.”

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7. Grant a variance to allow the proposed swimming pool for the existing residence to have a street setback at the radial intersection of Hardee Road and Manati Avenue of ten (10'-0") feet vs. the proposed swimming pool to maintain a minimum setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables “Zoning Code.”
8. Grant a variance to allow the proposed pool deck for the existing residence to have a street setback at the radial intersection of Hardee Road and Manati Avenue of five feet four inches (5'-4") vs. the proposed pool deck to maintain a minimum setback of twenty-five (25'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables “Zoning Code.”
9. Grant a variance to allow the proposed pool equipment for the existing residence to have a side street setback (Manati Avenue) of fourteen feet six inches (14'-6") vs. the proposed pool equipment to have a side street setback of fifteen (15'-0") feet as required by Sections 4-101 (D) (4) (b) and 5-108 (D) (1) of the Coral Gables “Zoning Code.”

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

southwest 50 feet southeast 100 feet northeast 50 feet northwest 100 feet to POB
Coral Gables Riviera Section 2, Revised PB/PG: 28/18
(475 South Dixie Highway)

Nelson De Leon, AIA - Applicant
Inscore LLC - Owner
Nelson De Leon, AIA - Architect/Engineer

A hearing was held on case no. 8701-Z.

Present: Nelson De Leon, AIA - Applicant and Architect/Engineer
Jorge Martinez

APPLICANT'S PROPOSAL: In connection with the proposed tenant signage for 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 the tenant "Starbucks Coffee" to have two (2) signs vs. only one (1) sign permitted per street level, per street right-of-way frontage as stipulated by Section 5-1904 of the Coral Gables "Zoning Code."
2. Grant a variance to allow the tenant "Starbucks Coffee" to have a cabinet sign vs. cabinet signs are prohibited as stipulated by Section 5-1902 (D) (4) of the Coral Gables "Zoning Code."

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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 an additional sign for the tenant "Starbucks Coffee" on the northeast elevation of the building.

The current "Zoning Code" is specific in allowing only one (1) tenant sign per street right-of-way frontage. The building has an existing sign on South Dixie Highway.

After careful review of the plans, Staff has determined that neither the building, nor the lot, is unusual in shape. There are numerous businesses on South Dixie Highway with similar conditions which have only one sign on the building per street right-of-way frontage. Staff cannot find an unnecessary hardship to approve the additional sign on the side of the building.

Additionally, there are no parameters to review the proposed sign as to its length, area, height of lettering etc. The proposed sign structure consists of a frame and face containing all the text and/or logo symbols within a single enclosed cabinet area. Cabinet signs are specifically prohibited as a sign type in the Coral Gables "Zoning Code."

The granting of these variances would confer on the Applicant, a special privilege which is denied by the Coral Gables "Zoning Code" to other lands, buildings or structures within the same zoning district. Staff recommends **DENIAL** of items no. 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 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.

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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.

A motion was made by Dr. Briggle, seconded by Dr. De Blij to deny Items 1 and 2 of the Applicant’s proposal.

RESOLUTION NO. 4951-ZB

**A RESOLUTION DENYING 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 the tenant “Starbucks Coffee” to have two (2) signs vs. only one (1) sign permitted per street level, per street right-of-way frontage as stipulated by Section 5-1904 of the Coral Gables “Zoning Code.”

2. Grant a variance to allow the tenant "Starbucks Coffee" to have a cabinet sign vs. cabinet signs are prohibited as stipulated by Section 5-1902 (D) (4) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yea" - Mr. Bello, Dr. Briggle, Dr. De Blij, Mr. Artigues and Mr. Lukacs. "Nay" - None. "Excused" - Ms. De Las Cuevas-Diaz. "Absent" - Mr. Mora.

5. 8702-Z

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

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

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

Present: George E. Peon, AIA - Applicant and Architect/Engineer; Percy Martinez - Owner

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."

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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.

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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 residences' 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. Bello, seconded by Mr. Artigues to approve Items 1 and 2 of the Applicant's proposal.

RESOLUTION NO. 4952-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 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: "Yea" - Mr. Bello, Dr. De Blij and Mr. Artigues. "Nay" - Dr. Briggle and Mr. Lukacs. "Excused" - Ms. De Las Cuevas-Diaz. "Absent" - Mr. Mora.

6. 8703-Z Lots: 1 through 3 inclusive and Lots 14 through 16 inclusive, Block: 85
and north one half of closed street adjacent to S/L of Lots 14 through 16 including Block 85
Coral Gables Biscayne Bay Section 1 Plat A, PB/PG: 25/63
(630 Sunset Drive)

Carolyn Borlenghi Harris - Applicant
James M. Harris and Carolyn Borlenghi Harris - Owners
Ralph Choeff, P.A.- Architect/Engineer

A hearing was held on case no. 8703-Z.

Present: Ralph Choeff, P.A.- Architect/Engineer

APPLICANT'S PROPOSAL: In connection with the proposed 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 proposed single-family residence to have a maximum height of thirty-one feet, five and a half inches (31'-5½") vs. single-family residences shall not exceed a height of twenty-nine (29'-0") feet above established grade as provided for by Section 4-101 (D) (6) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the garage that faces upon a street to exceed one-third (1/3) of the width of the façade of the residence vs. a garage that faces upon a street shall not exceed one-third (1/3) of the width of the façade of the residence as provided by Section 4-101 (D) (12) 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 two variances for the proposed single-family residence. Item no. 1 is to grant a variance to exceed the allowable maximum height of twenty-nine (29'-0") feet as stipulated in the Coral Gables "Zoning Code," and construct the new residence at thirty-one feet, five and half inches in height. This home is located on the corner of Sunset Drive and Mindello Street, and is designed in the French Tudor style. The house is relatively undersized and smaller than what is allowed by the "Zoning Code." The French Tudor style supports the element design of a higher roof. A lower roof would render the design less successful. The slightly higher roof gives this house the necessary presence on the streetscape and is appropriate for the neighborhood.

In item no. 2, the Applicant is requesting a variance to allow the garage elevation to exceed one-third (1/3) of the width of the home's façade that faces upon a street. The front and main portion of the residence is designed to face Sunset Drive, and the garage building entrance is on the side street. The garage elevation exceeds the allowable one-third (1/3) with relation to the façade facing Mindello Street; however, the garage layout was designed in proportion to the size of the residence, and to aid vehicle entry on a less transited street.

Staff finds the residence was designed to best utilize the site area and is in harmony with the surrounding properties. After review of the plans, Staff feels that due to the unique design of the residence, both variances requested are minimal.

Staff recommends **APPROVAL** 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 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. Bello, seconded by Dr. Briggle to approve Items 1 and 2 of the Applicant's proposal.

RESOLUTION NO. 4953-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 the proposed single-family residence to have a maximum height of thirty-one feet, five and a half inches (31'-5½") vs. single-family residences shall not exceed a height of twenty-nine (29'-0") feet above established grade as

provided for by Section 4-101 (D) (6) of the Coral Gables "Zoning Code."

2. Grant a variance to allow the garage that faces upon a street to exceed one-third (1/3) of the width of the façade of the residence vs. a garage that faces upon a street shall not exceed one-third (1/3) of the width of the façade of the residence as provided by Section 4-101 (D) (12) of the Coral Gables "Zoning Code."

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A Resolution was passed and adopted due to the following roll call: "Yea" - Dr. Briggle, Dr. De Blij, Mr. Artigues, Mr. Bello and Mr. Lukacs. "Nay" - None. "Excused" - Ms. De Las Cuevas-Diaz. "Absent" - Mr. Mora.

7. 8704-Z

Lot: 101, Block: 2
Sunrise Harbour Revised Plat, PB/PG: 65/22
(6815 Sunrise Drive)

Nelson Gonzalez - Applicant
Hivemind LLC - Owner
Carlos Prio-Touzet, Touzet Studio Design & Architecture - Architect/Engineer

A hearing was held on case no. 8704-Z.

Present: Nelson Gonzalez - Applicant; Carlos Prio-Touzet, Touzet Studio Design & Architecture - Architect/Engineer

APPLICANT'S PROPOSAL: In connection with the proposed 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 proposed single-family residence to have glass exterior walls on the portion of the house facing east (Biscayne Bay) vs. all exterior walls of all buildings shall be constructed of concrete, glass block, poured concrete, stone, hollow tile, coral rock or clay brick as required by Section 5-606 of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed single-family residence a forty (40) square feet portion of the south exterior wall to have wood facing vs. wood facings shall be permitted on the exterior walls of single-family residences in that area of Coral Gables lying south of the Coral Gables Deep Waterway and east of Old Cutler Road as stipulated by Section 5-607 of the Coral Gables "Zoning Code."
3. Grant a variance to allow the proposed single-family residence to have an open wood structure surrounding the mechanical units attached to the south side of the house vs. all exterior walls of all

buildings shall be constructed of concrete, glass block, poured concrete, stone, hollow tile, coral rock or clay brick as required by Section 5-606 of the Coral Gables "Zoning Code."

4. Grant a variance to allow the proposed single-family residence to have a flat roof deck with a thirty-six (36") inch parapet and an elevation of twenty-five (25'-0") feet above established grade and the top of the parapet twenty-eight (28'-0") feet above established grade vs. the roof deck of the flat roof with a maximum thirty (30") inch high parapet shall not exceed twenty-four (24'-0") feet above established grade and the top of the parapet shall not exceed twenty-six feet six inches (26'-6") above established grade as stipulated by Section 5-1603 (B) 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.

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STAFF OBSERVATION: Item no. 1 was withdrawn by City Staff. A variance is not required.

The Applicant is requesting several variances in regard to the proposed single-family residence. Item no. 2 is a request for a variance to allow a forty (40) square feet portion of the south exterior wall to have wood facing. The Coral Gables "Zoning Code" permits wood facing in the area of Coral Gables lying south of the Coral Gables Deep Waterway and east of Old Cutler Road. This property is a waterfront property located on Biscayne Bay. The unique and innovative design of this residence supports the wood facing and is consistent with similar homes that are allowed wood facing south of the Coral Gables Deep Waterway. Due to the minimal amount of wood facing being requested, Staff recommends APPROVAL of item 2.

Item no. 3 was withdrawn by City Staff.

Item no. 4 is a request to grant a variance for a flat roof deck to have a thirty-six (36) inch high parapet and an elevation of twenty-five (25'-0") feet above established grade, and the top of the parapet be twenty-eight (28'-0") feet above established grade. This property is located in a VE flood zone district. The height limitation on flat roof decks and parapets, as prescribed in the "Zoning Code," adversely impact homes located within a flood hazard district since these homes are required to be elevated. The additional height requests are minimal and have been properly incorporated into the home's unique design which is in harmony with the neighborhood.

Staff recommends APPROVAL of item no. 4.

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.

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Based on the findings in paragraphs 1 through 7 above, the Zoning Division Staff recommends APPROVAL of Items 2 and 4 of the Applicant's proposal.

Prior to the hearing commencing on Application No. 8704-Z, Ms. Gonzalez, Secretary of the Board, informed members that Items 1 and 3 were withdrawn by Staff.

A motion was made by Dr. Briggle, seconded by Dr. De Blij to approve Items 2 and 4 of the Applicant's proposal.

RESOLUTION NO. 4954-ZB

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

2. Grant a variance to allow the proposed single-family residence a forty (40) square feet portion of the south exterior wall to have wood facing vs. wood facings shall be permitted on the exterior walls of single-family residences in that area of Coral Gables lying south of the Coral Gables Deep Waterway and east of Old Cutler Road as stipulated by Section 5-607 of the Coral Gables "Zoning Code."
4. Grant a variance to allow the proposed single-family residence to have a flat roof deck with a thirty-six (36") inch parapet and an elevation of twenty-five (25'-0") feet above established grade and the top of the parapet twenty-eight (28'-0") feet above established grade vs. the roof deck of the flat roof with a maximum thirty (30") inch high parapet shall not exceed twenty-four (24'-0") feet above established

A Resolution was passed and adopted due to the following roll call: "Yea" - Dr. De Blij, Mr. Artigues, Mr.

Bello, Dr. Briggle and Mr. Lukacs. "Nays" - None. "Excused" - Ms. De Las Cuevas-Diaz. "Absent" - Mr. Mora.

8. 8705-Z

Lot: Beginning 1131.81 feet south of northwest corner TR 1
south 220 feet east 488 feet north 100.49 feet west 294 feet
northwesterly 151.6 feet west 118 feet to POB
Amended plat of Journeys End, PB/PG: 34/89
(9540 Old Cutler Road)

Jacob Shaham - Applicant
Paul G. and Margaret Mouttet - Owners
Mariano Corral - Architect/Engineer

A hearing was held on case no. 8705-Z.

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Present: Mariano Corral - Architect/Engineer; Mario J. Garcia-Serra, Esq., Greenberg Traurig, P.A.
representing the Applicant; Mr. Toby Prince Brigham, neighboring property owner

APPLICANT'S PROPOSAL: In connection with the proposed tennis court, side and back nets and chain link fence for 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 proposed tennis court, side and back nets for the existing residence to have setbacks less than the required setbacks for the residence vs. the proposed tennis court, side and back nets, fences or walls shall be in accordance with the minimum setbacks required located of the underlying zoning district as required by Section 5-112 (A) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed tennis court, side and back nets to have a side setback of thirteen (13'-0") feet from the north side boundary property line and six (6'-0") feet from the northeasterly side boundary property line vs. the proposed tennis court, side and back nets shall provide a minimum side setback of twenty (20'-0") feet as required by Section A-56 (K) (2) of the Coral Gables "Zoning Code."
3. Grant a variance to allow the proposed tennis court, side and back nets to have a rear setback of six (6'-0") feet vs. the proposed tennis court, side and back nets shall provide a minimum of seven feet six inches (7'-6") as required by Section A-56 (K) (4) of the Coral Gables "Zoning Code."
4. Grant a variance to allow the chain link fence surrounding the tennis court to have a maximum height of ten (10'-0") feet vs. walls and fences may have a maximum height of six (6'-0") feet as required by Section A-56 (F) 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 several variances for the proposed tennis court, side and back nets and a chain link fence surrounding the tennis court.

This property is irregularly shaped and due to the existing residence, swimming pool and gazebo on the property, the only viable area for a tennis court is to locate it on the north side of the property. Unfortunately, due to the irregular side property boundaries, the tennis court, side and back nets and surrounding chain link fence would encroach into the required side setback area. Specifically, the tennis court, side and back nets would be thirteen (13'-0") feet from the north side boundary property line and six (6'-0") feet from the northeasterly side boundary property line.

Due to the area required to accommodate a tennis court, the tennis court, side and back nets and surrounding chain link fence would also encroach into the rear setback area. The tennis court structure would be located at six (6'-0") feet from the rear property line.

The Applicant is also requesting to install a chain link fence at a maximum height of ten (10'-0") feet surrounding the tennis court. The Coral Gables "Zoning Code" allows a maximum of six (6'-0") feet within this subdivision area. The taller chain link fence would provide the necessary safety and would enhance the privacy for the homeowner and neighbor. The netting will be incorporated into the chain link fence minimizing the appearance of the fence. In addition, the space between the tennis court enclosure and the boundaries of the property will be heavily landscaped in order to create a dense buffer.

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After review of the plans submitted, Staff feels the location proposed for the tennis court, side and back nets and a chain link fence is acceptable based on the fact that the rear is bordered by Matheson Park and the immediate neighbor to the north has entered into a conditional waiver of objection with the current and future owners of the property.

Staff recommends **APPROVAL** of items no. 1, 2, 3, and 4 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, 2, 3 and 4 of the Applicant's proposal.

Dr. De Blij indicated that she was uncomfortable supporting a decision that was based on a conditional waiver from the neighboring property owner, thus placing the onus on the City to regulate indefinitely. Ms. Gonzalez, Secretary of the Board, stated that although Staff was pleased that the neighbor has no objections to this application and is in agreement with the waiver, this was not the basis for their recommendation nor would the City be the enforcer of the waiver.

Mr. Toby Prince Brigham, a neighboring property owner (9500 Old Cutler Road), provided testimony in support of this application.

A motion was made by Dr. Briggle, seconded by Mr. Bello to approve Items 1 through 4 of the Applicant's proposal.

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RESOLUTION NO. 4955-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 the proposed tennis court, side and back nets for the existing residence to have setbacks less than the required setbacks for the residence vs. the proposed tennis court, side and back nets, fences or walls shall be in accordance with the minimum setbacks required located of the underlying zoning district as required by Section 5-112 (A) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed tennis court, side and back nets to have a side setback of thirteen (13'-0") feet from the north side boundary property line and six (6'-0") feet from the northeasterly side boundary property line vs. the proposed tennis

court, side and back nets shall provide a minimum side setback of twenty (20'-0") feet as required by Section A-56 (K) (2) of the Coral Gables "Zoning Code."

3. Grant a variance to allow the proposed tennis court, side and back nets to have a rear setback of six (6'-0") feet vs. the proposed tennis court, side and back nets shall provide a minimum of seven feet six inches (7'-6") as required by Section A-56 (K) (4) of the Coral Gables "Zoning Code."
4. Grant a variance to allow the chain link fence surrounding the tennis court to have a maximum height of ten (10'-0") feet vs. walls and fences may have a maximum height of six (6'-0") feet as required by Section A-56 (F) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yea" - Dr. Briggle, Mr. Artigues, Mr. Bello and Mr. Lukacs. "Nay" - Dr. De Blij. "Excused" - Ms. De Las Cuevas-Diaz. "Absent" - Mr. Mora.

For clarification, Mr. Lukacs reviewed the Coral Gables "Zoning Code" to confirm that the ruling on Case No. 8702-Z stands as Approved. Section 2-403 (B) of the Coral Gables "Zoning Code" implies that a majority vote is needed for Approval of a Resolution. In the event of a tie vote, the application would automatically be deferred to the next Board of Adjustment meeting, until a majority vote is achieved.

In the event that Mr. Lukacs' interpretation of Section 2-403 (B) is incorrect, the Applicant requests that this case be deferred until which time a full Board of Adjustment panel is present.

Meeting adjourned at 9:22 a.m.

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Elizabeth L. Gonzalez
Secretary