

City of Coral Gables City Commission Meeting
Agenda Item E-1
July 11, 2023
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Vince Lago

Vice Mayor Rhonda Anderson

Commissioner Melissa Castro

Commissioner Ariel Fernandez

Commissioner Kirk Menendez

City Staff

City Attorney, Cristina Suárez

City Manager, Peter Iglesias

City Clerk, Billy Urquia

Public Speaker(s)

Agenda Item E-1 [1:58 p.m.]

An Appeal to the Coral Gables City Commission from the decision of the Board of Adjustment on June 5, 2023, to deny the application for a variance to allow a boat lift to extend thirty-three feet and ten inches (33'-10") from the bank of the waterway vs. watercraft lifts or floating watercraft lifts shall not extend beyond twenty-five feet (25') from the banks of waterways, pursuant to Section 3-705(E) of the Coral Gables Zoning Code for a property located at 10 Edgewater Drive, legally described as all of Blocks 3 and 4 and the east 235 feet of Block 5 of revised plat of Sunrise Harbour.

Mayor Lago: Moving to E-1. Madam City Attorney, would you like to review the procedural order before we commence.

City Attorney Suarez: Yes Mayor. Mayor, item E-1 is an Appeal to the Coral Gables City Commission from the decision of the Board of Adjustment on June 5, 2023, to deny the application for a variance to allow a boat lift to extend thirty-three feet and ten inches (33'-10") from the bank of the waterway vs. watercraft lifts or floating watercraft lifts shall not extend beyond twenty-five feet (25') from the banks of waterways, pursuant to Section 3-705(E) of the Coral Gables Zoning Code for a property located at 10 Edgewater Drive, legally described as all of Blocks 3 and 4 and the east 235 feet of Block 5 of revised plat of Sunrise Harbour. This is a quasi-judicial item,

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pursuant to Section 14-208.6 is the city zoning code. This appeal is based on the record of the hearing before the Board of Adjustment and shall not be a de novo hearing. What that means is that no new or additional testimony shall be taken. This is an appeal based only on the record. As a reminder, your role in considering this appeal is whether one, due process was afforded; two, the essential requirements of the law were observed; and three, whether the decision was based on competent substantial evidence. Competent substantial evidence is that which is sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. After the Commission's review, the City Commission has four options as provided in the zoning code. One, the Commission can affirm the decision, in which in this case denied the variance; two, the Commission can affirm the decision with conditions; three, the City Commission can override the decision of the Board of Adjustment, which in this case would mean the variance is granted; or four, the City Commission can remand further proceedings to the Board of Adjustment. The Mayor, as Chair of the City Commission with me as Parliamentarian has issued a procedural order that was provided in advance to the Commission and the parties. Pursuant to that procedural order, the appellant will be allowed 15 minutes for presentation which will be limited to the record before the Board of Adjustment. Next, city staff will be allowed 15 minutes for its presentation, which will also be limited to the record below. Next will be time for questions by members of the Commission to staff or the parties, and then public comment will be allowed, but will be limited to two minutes per speaker. Because the review of this appeal is not de novo, public comments shall not be considered testimony in this case. Finally, there'll be time for additional questions and discussion by members of the Commission and because this is a quasi-judicial item, if there have been any ex-parte communications, please disclose them.

Mayor Lago: Thank you very much. Sir how are you.

Mr. Glen Larson: Good afternoon, Mayor, Commission, my name is Glen Larson with Dock and Marine Construction, my business is located at 752 N.E. 79th Street, Miami, FL 33138. I'm here on behalf of the slip owner. He was unable to attend. I believe he may be on Zoom. We are a contractor that has been in Miami-Dade County since the last 50s. My grandfather started our company. I probably do 60 percent of all the dock and marine construction in Coral Gables. I'm proud to be a contractor in Coral Gables. I'm devastated that we're losing Suramy, but we still have some good team members. I'm familiar, I've worked with Peter for many years. He's educated me very well. We made a presentation to install a boatlift at 10 Edgewater. In 2006 a lift was approved with a variance. The reason that we requested a variance is because the extremity of the lift extends beyond the 25 feet allowed by code. We are extending, I believe its 31 feet or 33 feet 10 inches from the bank. The reason for this extension is because the boat slip is perpendicular to the shoreline. It's a feature that's unique to this condominium, as well as the adjacent condos on both sides. So, there is no way to install a lift in the slip without extending beyond the 25 feet that the code allows for. The original presentation to the Board of Adjustment did not have any negative input. We had some inquiries from some letters submitted, e-mails to the city that were inquiring as to were there going to be any protrusions or navigation to hazards created by the installation of this lift. There are no protrusions into the waterway beyond the extent of the slip, the existing mooring piling delineate the waterway most point of the slip. The lift and the boat will remain entirely within the constraints of the slip. The reason that the owner requested this lift originally was, he is 69 years old, his wife is just behind him, and they are having trouble getting in and out

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of their boat. So, they have a hardship and some concerns that accessing the boat specifically during low tides, that they may have a problem getting in and out of the boat. So, this is not just a matter of protecting the investment. This is a matter of making this a safe access to the water for the resident. I don't know if Billy can bring up any of the pictures. I had prepared a few Google Earth-shots just to give you an idea. If you see on the right, we have the boatlift that was permanent in 2006, and then on the left I have the blue box, the second boat from the left side in... The yellow line that you see extending across is the 25-foot line. So, as you can see the yellow line, the 25-foot setback for the maximum extension into the waterway, every boat and every slip along the way exceeds that. Its just a circumstance by the nature of the marina. So, the blue boatlift does not change the position of the boat. You can see the box that I made around his boat. It merely lifts the boat in its existing position and makes it secure and safe for him to get to a level so he can get on and off the boat. Can you switch to the next.

Mayor Lago: Are those wood pilings existing.

Mr. Larson: The wood piling is all existing. The marina...

Mayor Lago: And you would have to obviously, move in a different direction for structural reasons, correct, with concrete.

Mr. Larson: Correct. There was one that was zoomed out that showed all the lifts. There we go. So, this is just a map of the general area. Its about a half a mile. You can see right smack in the middle is the lift that we're proposing. The red – one, two, three, four, there's probably four or five red circles in there. Those were lifts that were approved that extends as far out as or farther than what we're requesting. Every green circle that you see on there, I did not count them, there's probably seventy are the existing lifts in Coral Gables. So, we're not asking to put in something that's uncommon to the area. This is just a boatlift, its another boatlift to the hundreds that are in Coral Gables. The ones that are circled in red were other variances that I did attend and get approval with the city, and the most recent one is on the very left side which is the exact coincidence the same distance out from the shoreline. I don't think that there's any special circumstance that would make the city want to reject this. It doesn't create any navigation hazard. It maintains the 75 feet clear that is the single most important item in the city code for boaters. That's all I have. If anybody has any questions.

Mayor Lago: You can sit down; we'll listen to staff.

City Clerk Urquia: Just so you know, the homeowner is available on Zoom and he's able to speak if you need him.

Mayor Lago: Let's hear what staff has to say.

Development Services Director Cabrera: Good afternoon, Suramy Cabrera. Actually, this went to the Board of Adjustment. I wasn't there. It was actually presented by our Zoning Administrator, and I did look at it recently. She couldn't be here. She had an emergency, and we couldn't find that there's anything magical about the 25 feet. I looked at the photos, we looked at the history. I

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don't know if the recommendation would have been as it was. I don't have anything to say that would negate what he's saying.

Mayor Lago: Is it just the code or it's an aesthetic issue?

Development Services Director Cabrera: Its just the code, but that property, the other finger peers and all that are also 25 feet already. It doesn't present a navigational hazard. Its within the mooring piles; the mooring piles are more than 25 feet. The code says mooring piles shouldn't be more than 25 feet, they already are. I don't think we have a very strong opinion about denying this or anything of that nature after looking at it and the history carefully.

Mayor Lago: The entire dock would be redone, correct, at least the finger peer.

Development Services Director Cabrera: He had a picture where it shows its just – the only thing that we're doing by not allowing them to install the lift is that they have to keep the boat in the water and not out of the water, but the boat is still going to extend the same amount.

Mayor Lago: I understand, but back to the same. What I'm talking about is the actual, the current structure that would hold the lift has to be completely revamped.

Mr. Larson: The current structure stays as is. The lift is going to be independent on four concrete pilings.

Mayor Lago: Exactly what I was...

City Manager Iglesias: Mayor, I believe what it is, it's a lift on what I just saw there, a lift of four concrete piles between the actual docks, the boat is driven in and then its lifted. The reason why they can't put it further in is because it would unbalance the boat, and so they've got to keep that boat in a certain balance. So, from what I gather there, they are putting it right between the existing 25-foot dock, because of structural constraints and the balancing of the structure it would be unsafe if you don't move it out slightly and get it where the center of gravity of that boat is.

Mayor Lago: Any other questions or concerns.

Commissioner Fernandez: I guess my only question was, is it going to – the boat is obviously not going to protrude from the pilings that are currently there, correct.

Mr. Larson: Correct.

Commissioner Fernandez: So, there's no change.

Mr. Larson: The boat is, as you see it in the aerial photograph, it stays exactly the same. The lift goes there, and it just raises the boat up.

Commissioner Fernandez: What was the reason for staff suggesting for denial?

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Development Services Director Cabrera: So, when I spoke to her was after the fact, and the only reason was that the code says 25 feet and they couldn't really understand there was a hardship, but I think it's just.

City Attorney Suarez: So Suramy, if I may clarify. Its not a hardship, the criteria is not actually a hardship. Its special conditions and circumstances exist which are peculiar to the land structure or building involved and which are not applicable to other land structures or buildings in the same zoning district. That was the problem which staff didn't find that it met the criteria.

Development Services Director Cabrera: I'm not sure that after reviewing it and looking at the particulars of it that I wouldn't necessarily agree with that determination today.

Vice Mayor Anderson: So, through the Mayor.

Mayor Lago: Yes.

Vice Mayor Anderson: From an accessibility standpoint, I think that there's a special need here for an individual of a certain age. My first inclination is the code, is the code, is the code, however, based upon the explanation that this elderly couple needs the boat to be raised to be able to access it and that's the real need, reason for that. City Attorney, I'm considering the accessibility factors here.

City Attorney Suarez: That's not one of the criteria for the granting of a variance.

Vice Mayor Anderson: But it is preempted, you know. Our city code is preempted by the ADA. I think its something that needs to get looked at from an accessibility standpoint to be able to make the vessel accessible for someone of this age bracket. Was that considered at all by the board?

Development Services Director Cabrera: I don't believe it was.

City Attorney Suarez: It was not because its not one of the enumerated criteria in the zoning code and that was not even mentioned or brought up at the hearing, so it should not even be considered here, because he said that here for the first time.

Commissioner Menendez: My question just on a technicality. What is our role, what's the issue we are faced with before we vote.

City Attorney Suarez: So, your role is to determine whether the Board of Adjustment based their decision on competent substantial evidence, if there was enough for that.

Vice Mayor Anderson: Or we can send it back.

City Attorney Suarez: You could send it back; you could affirm; you can send it back; or you could override their decision as well.

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Commissioner Menendez: So, follow up question to what you just said. Suramy, could you speak a little bit more on the part that you said that perhaps, you know, you may not see eye to eye with the final decision they made. I'm trying to find an opportunity here to sort of focus on a key issue.

Development Services Director Cabrera: So, after it was denied at the Board of Adjustment, Glen came to City Hall, and I met with him and with our Zoning Administrator. When I looked at it a little bit more, we looked at the history, I think that if I would have had input before it went that perhaps our recommendation would not have been denial. Can I say that. I don't know if I'm allowed to say.

Commissioner Menendez: What's the trigger point that there is that gray area that it can go either way. What's the issue?

Development Services Director Cabrera: So, in reality, we could not find that there's anything magical about the 25 feet. Mooring piles are supposed to be 25 feet and they are further out the 25 feet, but even more so is that it's the same exact boat, it extends the same amount into the waterway and pass the finger piers, and the gentleman has a condition that he cannot enter his own boat. So, the only thing that we're doing by sticking hard to these 25 feet is forcing him to keep it in the water and not out of the water where its more accessible. That's the only difference. Its still going to extend the same amount. And I think when I look at it that way, I would have recommended approval.

Commissioner Menendez: Thank you. I appreciate that. Okay. I'm ready.

Vice Mayor Anderson: I would like to send it back to the Board of Adjustment together with City Attorney's office taking a look at the ADA accessibility requirements in how those preempt certain codes to make this vessel accessible for this family.

Commissioner Fernandez: And I think we should perhaps look into the possibility of looking into the 25 feet and whether that makes sense in today's numbers. I think when those docks – my understanding when those docks were originally built by people with sailboats, so you weren't using lifts and the technology of lifts has also changed substantially over the last few years. So, I think that's maybe something we should look into as well.

Mayor Lago: Madam Vice Mayor, this is an item that comes before the Commission in a very rare occurrence. Have you signed up to speak?

Dr. Silver: Pardon me?

Mayor Lago: Have you signed up to speak sir?

Dr. Silver: Yes. Then we look forward to hearing from you. Thank you. Just wanted to make sure you followed the protocol. Thank you.

Dr. Silver: I filled out a card, a speaker's card.

Mayor Lago: Yes. I love it.

Dr. Silver: Yes, absolutely. My name is Dr. William Silver and I live in the Gables Club, and I'm quite familiar with the docks. By the way, the marina is owned by the Gables Club. The marina is not owned by any of the individuals; and these are people who have a license. There are only ten licenses at the Gables Club, as a matter of information for you. So, the other slips are all sailboat slips, a limited number of motorboat slips, and there are lifts that are present there now. By the way, I do not speak for the board, I speak only as an individual, my own self, as an aside. The high point of this meeting today besides that was all those people who received the Keys to the City of Coral Gables, that to me, I must say was the most inspiring moment of this meeting of any meeting that I've been to. It's wonderful to see that and I myself was humbled because I have a Key to the City of Coral Gables, and I worked as a service to the Coral Gables community as Chairperson of the Board of Adjustment and also as Chairperson of the Planning and Zoning Board. So, we have had these matters on our agenda for quite a while, and I hope that we'll be able to settle that. The objective of that zoning code of limiting the length was to prevent any boat protruding into the Coral Gables waterway and interfering the passage of other boats along the waterway. I think the way the – well the way it's written today and the objective of this particular item on your agenda satisfies that objective, and to me that was the only objective that was necessary to make a positive conclusion by the Board of Adjustment, and that's why I personally was rather mystified by their objection and there was no discussion at the Board of Adjustment, none at all. There was just, this is what it is, and what's your vote. And we didn't hear anything about pros or cons. So, if the objective has been met, I think it would be fair enough to say by this Commission that they could accomplish what they'd asked to do. Thank you.

Mayor Lago: So, doctor, first off, thank you for being here and thank you for your service to the City of Coral Gables. That's very important and we're grateful for that.

Dr. Silver: My pleasure.

Mayor Lago: You made my point. I was about to say. I'm ready to vote on this. If my colleague, the Vice Mayor would like to remand it back, I will oblige her, out of respect, but I don't see any issue when you talk about somebody who is elderly, somebody who would like to enjoy their boat, who would like to enjoy and it's not going to be protruding into the waterway, it's not going to compromise navigability through the waterway there; and to me, I don't think aesthetically it's going to look any different. I'm perfectly fine with it. So, I leave it up to the Commission to make the decision, but...

Commissioner Castro: So, if we approve this, what is it exactly that we're approving?

City Attorney Suarez: So, when you approve, you mean approve the variance, is that what you mean.

Commissioner Castro: Um huh.
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City Attorney Suarez: So, you would want to override the decision of the Board of Adjustment and approve the variance.

Commissioner Castro: Is that legal because what we're voting on is the criteria...

Mayor Lago: Its legal because we are the Commission, we make the final decision whether we can approve this variance. They are applying for a variance here today in an effort to override the previous board's decision. We have three options today; either remand it back to the previous board; we either uphold the previous board's findings; or we grant the variance, and those are the decisions that we're basically at this moment considering.

Commissioner Menendez: My position, by the way, in historic preservation, we've sent stuff back.

City Attorney Suarez: Been once only, once only.

Commissioner Menendez: Because there were specific factual questions. I don't see a factual question here. I think its very clear, so sending it back, in my opinion I think is an exercise, but its sort of running on a treadmill. Like the Mayor, I'm comfortable to vote today.

Vice Mayor Anderson: I'm comfortable to vote today too.

City Attorney Suarez: Mayor, if I can just finish answering Commissioner Castro's question. I think that if this Commission decides to override the decision, it would be based on a finding that there wasn't competent substantial evidence for that decision by the Board of Adjustment, and they had hung their hat on the finding that there was no special conditions or circumstances. So, if you all feel that there was not enough for that, then you could override that decision.

Vice Mayor Anderson: Well, I don't think that there was competent substantial evidence and in addition to that, that it violates the Americans with Disabilities Act. That's a law, its not evidence and upon that basis I withdraw my motion and I'll make a motion to allow for the variance.

Commissioner Menendez: Second.

Mayor Lago: Mr. Clerk.

City Attorney Suarez: It's a motion to override the decision of the Board of Adjustment and grant the variance.

Mayor Lago: Mr. Clerk.

Commissioner Menendez: Yes

Vice Mayor Anderson: Yes

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Commissioner Castro: Yes

Commissioner Fernandez: Yes

Mayor Lago: Yes

(Vote: 5-0)

Mayor Lago: I want to hit the last two items that should be very, very quick. Thank you doctor again for being here with us and for your years of service to the city. By the way, I appreciate your comments in regard to the Manager and Suramy. As an industry professional, which I've dealt with before, you're one of the most respected individuals when it comes to docks and pilings in this community and those comments were greatly appreciated.

Mr. Larson: Thank you Mayor, thank you Commission.

Commissioner Menendez: Your presentation was very clear, very on point. It helped us a great deal.

Mr. Larson: Thank you. If the citizens, the residents of Coral Gables that Suramy has personally helped were to come here, you'd need a bigger room.

Vice Mayor Anderson: Thank you.

Commissioner Fernandez: Mr. Mayor, if I could just ask one question. Mr. Manager, would it possible for us to work together on finding a solution to this 25-foot requirement and working towards finding what the current code should be.

City Manager Iglesias: Most boats, Commissioner, its going to be fine. I think in this particular case, because they couldn't get into the boat, this is just...

Commissioner Fernandez: Right. So, what I'm saying is maybe we can find a way to word the code so that we're not in this situation going forward.

City Manager Iglesias: We can look at that.

Commissioner Fernandez: And incorporate the ADA requirements that the Vice Mayor is talking about.

City Manager Iglesias: Yes. I think one of the concerns was navigability and we will work on that. I'll make a note to work on that and make sure we don't impinge the navigability of the channel.

Commissioner Fernandez: Thank you sir.