

**THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT  
FEBRUARY 3, 2014  
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 APPOINTED BY:**

Alejandro Galvez	E	L	Mayor Jim Cason
Gustave Perez	P	P	Vice Mayor William H. Kerdyk, Jr.
Susan Perry Fuhrman	P	P	Comm. Patricia Keon
Michael Sotelo	P	E	Comm. Vince Lago
Jorge Otero	P	P	Comm. Frank C. Quesada
Oscar Hidalgo	P	P	Board of Adjustment
Col. John (Jack) M. Thomson	P	P	City Manager

**STAFF:**

Elizabeth Gonzalez, Secretary	A = Absent
Yaneris Figueroa, Special Counsel	C = Meeting Cancelled
Charles K. Wu, Assistant Development Services Director	E = Excused Absence
Ramon Trias, Planning & Zoning Director	L = Late
Joan Bailey, Court Reporter	P = Present

**THESE MINUTES DO NOT REQUIRE ANY ACTION BY THE CITY COMMISSION**

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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.

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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. Six members were present.

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**2. Approval of the January 6, 2014 Recap**

A motion was made by Mr. Hidalgo, seconded by Ms. Fuhrman to approve the January 6, 2014 Recap. A resolution was passed by voice vote.

**RESOLUTION No. 5092-ZB**

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**3.**

A motion was made by Mr. Otero, seconded Ms. Fuhrman to excuse the February 3, 2014 absence of Board Member Mr. Michael Sotelo a resolution was passed by voice vote.

**RESOLUTION No. 5093-ZB**

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**4.**

Mr. Hidalgo recused himself on the following case BA-14-01-1674 (197 Leucadendra Drive) due to a conflict of interest. He stated he is the General Contractor on the property.

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**5.**

**BA-14-01-1674**

**(197 Leucadendra Drive)**

Lot: 17, Blk: B

Gables Estates No. 2, PB/PG: 60/37

Kirk Lofgren Ocean Consulting, LLC – Applicant

Miguel A. and Sylvia Duenas – Owners

John Omslaer P.E. – Engineer

**APPLICANT'S PROPOSAL:** In connection with the proposed dock, mooring piles, and boatlift 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 dock to extend outward from the bank twenty two feet (22'0") vs. No dock, wharf or similar structure shall be constructed more than five feet (5'0") outward from the bank as allowed by Section 5-802 (A) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed mooring piles to be located at forty seven feet (47'0") from the bank vs. No mooring piles shall be placed or set in the water bodies which shall be located at a greater distance than twenty five feet (25'0") from the bank of such water or waterways as allowed by Section 5-802 (B) of the Coral Gables "Zoning Code."
3. Grant a variance to allow the proposed boatlift to maintain a side setback distance of thirteen feet and four inches (13'4") vs. Davits, watercraft lifts and floating watercraft lifts shall be permitted as an accessory use to property in a residential district subject to that the minimum side setback for such davits, watercraft lifts or floating watercraft lifts shall be the same as the minimum side setbacks, extended, for the main structure as required by Section 5-805 (C). A minimum side setback of thirty feet (30'0") shall be required as by Section A-49 (B) (3) of the Coral Gables "Zoning Code." Setback requirements for auxiliary, accessory building and/or structures shall be governed by the same minimum setback requirements as provided for the main or principal building as required by Section 4-101 (D) (5).

**ADVERTISING:** This application was advertised in the Miami Daily Business Review on January 24, 2014. Letters were mailed to properties within one thousand feet of the subject property and the property was posted on January 24, 2014.

**STAFF OBSERVATION ITEM No. 1 AND No. 2:** The Applicant is proposing to construct a "T" shaped dock consisting of a four (4'0") feet in width by fifteen (15'0") feet in length access walkway and a five (5'0") feet in width by eighty (80'0") feet in length terminal platform. The waterward edge of the proposed dock will be located at a maximum twenty two (22'0") feet from the bank of the waterway. In addition to the dock, the Applicant is requesting a variance to install two (2) mooring piles to be located at forty seven feet (47'0") from the bank.

The proposed design was necessary due to the presence of benthic resources abutting the seawall. The Department of Regulatory and Economic Resources (RER) has approved and recommends this design to minimize the potential and cumulative adverse environmental impact and is necessary pursuant to the code of Miami-Dade County in obtaining the required water depth for the placement of mooring structures. Dredging at this site adjacent to the seawall is not recommended, since dredging would result in significant water quality impact and impact to the ecological resources in the area. The biological assessment performed by (RER) is attached.

This property is situated on an inlet of Gables Estates No. 2. The ample waterway width of approximately three hundred and forty feet (340'0"+/-), easily accommodates the additional distance projecting into the waterway and does not interfere with the required seventy-five feet (75'0") of unobstructed navigable waterway as required by the Zoning Code.

Due to the special waterway conditions a five feet (5'0") marginal dock and mooring piles abutting the seawall is not feasible at this site. The Zoning Division staff recommends **APPROVAL** of Item No. 1 and No. 2 in order to protect and preserve the existing resources.

**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.

**Does meet the standard required for authorization of variance.**

*The existing marine resources abutting the seawall create a special condition. Any installation of mooring structures must completely avoid impacting the natural resources.*

2. That the special conditions and circumstances would not result from the actions of the Applicant.

**Does meet the standard required for authorization of variance.**

*The condition at the site was not created by the actions of the Applicant. This condition is a natural occurring biological activity.*

3. That granting the variance requested will not confer on the Applicant a special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district.

**Does meet the standard required for authorization of variance.**

*Any installation of mooring structures must completely avoid impact to the natural resources pursuant to the Miami Dade County Code and is applicable to all affected properties. The abutting properties to the north and south have obtained variances for docks to extend beyond the allowable maximum of five feet (5'0").*

4. That literal interpretation of the provisions of these regulations would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and would work unnecessary and undue hardship on the Applicant (see also definition of "necessary hardship").

**Does meet the standard required for authorization of variance.**

*In order to protect the organisms and obtain proper water depth for the mooring of a vessel, the Department of Regulatory and Economic Resources (RER) will not approve a five feet in width dock abutting the bank of the waterway and requires the dock to be located at a minimum of twenty two feet (22'0") water ward projection.*

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**Does meet the standard required for authorization of variance.**

*The waterward projection distances being requested for the dock and mooring piles is the minimum necessary as required by the Department of Regulatory and Economic Resources (RER) The dock and mooring piles will allow the mooring of vessels and enjoyment of the waterway.*

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.

**Does meet the standard required for authorization of variance.**

*Granting the variance requested will not change the use to one that is not permitted in the zoning district.*

7. That the granting of the variance will 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.

**Does meet the standard required for authorization of variance.**

*The proposed dock and mooring piles design has received approval from the Gables Estates Architectural Review Committee, Board of Architects, the Department of Regulatory and Economic Resources (RER), Public Works and Coral Gables Marine Patrol.*

Based on the findings in paragraphs 1 through 7 above, the Zoning Division Staff recommends **APPROVAL** of Item No. 1 and No. 2 of the Applicant's request.

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**STAFF OBSERVATION ITEM NO. 3:** The Applicant is requesting a variance to install a boatlift within the required side setback of thirty feet (30'0") and maintain a side setback of thirteen feet four inches (13'4").

By regulating side setbacks the intent of the Zoning Code is to protect the distinctive character of the City. Side setbacks provide uniformity to a neighborhood and determine the relationships and placement between structures. Setbacks allow a certain measure of privacy between neighbors. They also provide distance between neighbors to mitigate noise and odors.

Considering the marine resources and depth conditions present in the waterway, an alternative location for the boatlift could be considered in lieu of encroaching into the required side setback. Staff has reviewed the design and cannot find the proposal complies with six of the seven standards required for recommendation of a variance.

**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.

**Does not meet the standard required for authorization of variance.**

*Side setbacks as required by the Zoning Code are applied consistently to all properties.*

2. That the special conditions and circumstances would not result from the actions of the Applicant.

**Does not meet the standard required for authorization of variance.**

*The installation of a boatlift encroaching into the required side setback would be a result of the actions of the Applicant.*

3. That granting the variance requested will not confer on the Applicant a special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district.

**Does not meet the standard required for authorization of variance.**

*Granting the variance will confer a special privilege by allowing a reduction in the required side setback distance.*

4. That literal interpretation of the provisions of these regulations would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and would work unnecessary and undue hardship on the Applicant (see also definition of "necessary hardship").

**Does not meet the standard required for authorization of variance.**

*Literal interpretation of the provision of these Zoning Code regulations would not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district. Applicability of a side setback distance is consistently applied to all properties throughout the city.*

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**Does not meet the standard required for authorization of variance.**

*The variance requested to encroach into the side setback and maintain thirteen feet and four inches (13'4") in lieu of the required thirty feet (30'0") is not a minimal request. Other locations could have been proposed in order to install and accommodate a boatlift without encroaching into the required side setback area.*

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.

**Does meet the standard required for authorization of variance.**

*Granting the variance requested will not change the use to one that is not permitted in the zoning district.*

7. That the granting of the variance will 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.

**Does not meet the standard required for authorization of variance.**

*Granting the variance will not be in harmony with the general intent and purpose of the side setback regulations and provides uniformity.*

Based on the findings in paragraphs 1 through 7 above, the Zoning Division Staff recommends **DENIAL** of Item No. 3 of the Applicant's request.

A motion was made by Mr. Galvez and seconded by Mr. Thomson to APPROVE Item No. 1 of the Applicant's request.

**RESOLUTION No. 5094-ZB**

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

1. Grant a variance to allow the proposed dock to extend outward from the bank twenty two feet (22'0") vs. No dock, wharf or similar structure shall be constructed more than five feet (5'0") outward from the bank as allowed by Section 5-802 (A) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yeas, Mr. Thomson, Mr. Galvez, Mr. Perez, Ms. Fuhrman, Mr. Otero, and. "Nays"- None.

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A motion was made by Mr. Thomson and seconded by Mr. Galvez to APPROVE Item No. 2 of the Applicant's request.

**RESOLUTION No. 5095-ZB**

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

2. Grant a variance to allow the proposed mooring piles to be located at forty seven feet (47'0") from the bank vs. No mooring piles shall be placed or set in the water bodies which shall be located at a greater distance than twenty five feet (25'0") from the bank of such water or waterways as allowed by Section 5-802 (B) of the Coral Gables "Zoning Code."

A Resolution was passed and adopted due to the following roll call: "Yeas, Ms. Fuhrman, Mr. Thomson, Mr. Galvez, Mr. Perez, Mr. Otero, and. "Nays"- None.

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A motion was made by Mr. Otero and seconded by Mr. Galvez to DEFER Item No. 3 of the Applicant's request.

**RESOLUTION No. 5096-ZB**

A RESOLUTION DEFERRING A REQUEST FOR A VARIANCE TO  
ORDINANCE No 2007-01 AS AMENDED AND KNOWN AS THE  
"ZONING CODE", TO WITH:

3. Grant a variance to allow the proposed boatlift to maintain a side setback distance of thirteen feet and four inches (13'4") vs. Davits, watercraft lifts and floating watercraft lifts shall be permitted as an accessory use to property in a residential district subject to that the minimum side setback for such davits, watercraft lifts or floating watercraft lifts shall be the same as the minimum side setbacks, extended, for the main structure as required by Section 5-805 (C). A minimum side setback of thirty feet (30'0") shall be required as by Section A-49 (B) (3) of the Coral Gables "Zoning Code." Setback requirements for auxiliary, accessory building and/or structures shall be governed by the same minimum setback requirements as provided for the main or principal building as required by Section 4-101 (D) (5).



**THE CITY OF CORAL GABLES  
BOARD OF ADJUSTMENT  
FEBRUARY 3, 2014**

**RECAP  
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A Resolution was passed and adopted due to the following roll call: "Yeas, Mr. Galvez, Mr. Perez, Ms. Fuhrman, Mr. Thomson, Mr. Otero, and. "Nays"- None

Meeting adjourned at 8:45 a.m.

THE CITY OF CORAL GABLES  
BOARD OF ADJUSTMENT  
Elizabeth Gonzalez  
Secretary