

**THE CITY OF CORAL GABLES BOARD OF ADJUSTMENT
MARCH 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	P	Mayor Jim Cason
Gustave Perez	P	P	P	Vice Mayor William H. Kerdyk, Jr.
Susan Perry Fuhrman	P	P	P	Comm. Patricia Keon
Michael Sotelo	P	E	P	Comm. Vince Lago
Jorge Otero	P	P	P	Comm. Frank C. Quesada
Oscar Hidalgo	P	P	P	Board of Adjustment
Col. John (Jack) M. Thomson	P	P	P	City Manager

STAFF:

Elizabeth Gonzalez, Secretary
Bridgette N. Thornton, Deputy City Attorney
Charles K. Wu, Assistant Development Services Director
Joan Bailey, Court Reporter

A = Absent
C = Meeting Cancelled
E = Excused Absence
L = Late
P = Present

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 seven board members were present at that time. Four votes are necessary for any action thereof.

The Chairperson announced the following rules of procedure for the hearing:

1. Staff recommendation.
2. The applicant will present his/her case.
3. If there are speakers in favor of the application, they will be given the opportunity to be heard.
4. If there are speakers against the application, they will be given the opportunity to be heard.
5. The applicant will be given the opportunity of a rebuttal.
6. Public hearing closed.
7. Board members discussion.
8. Motion, second and a vote on the application.

1. Roll Call

Roll call was taken. Seven members were present.

2. Approval of the February 3, 2014 Recap

A motion was made by Mr. Hidalgo, seconded by Ms. Fuhrman to approve the February 3, 2014 Recap. A resolution was passed by voice vote.

RESOLUTION No. 5097-ZB

3.

BA-14-01-2939

(6855 Sunrise Drive)

Lot: 99, Blk: 2

Sunrise Harbour Rev., PB/PG: 65/22

Kirk Lofgren Ocean Consulting, LLC – Applicant

Sunrise 6855 Inc. – Owners

John Omslaer P.E. – Engineer

APPLICANT'S PROPOSAL: In connection with the proposed dock and mooring piles for the existing residence at the subject property, the Applicant requests the following variance 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 be constructed and extend outward from the property line forty four feet and nine inches (44'9") along with mooring piles to be located at fifteen feet (15'0") from the dock line. The mooring piles will be located at fifty nine feet and nine inches (59'9") vs. No docks shall extend more than twenty five (25'0") feet from the property line into Biscayne Bay as allowed by Section 5-803 (A) (D) of the Coral Gables "Zoning Code."

BOARD OF ARCHITECTS REVIEW: Final approval on December 10, 2013.

ADVERTISING: This application was advertised in the Miami Daily Business Review on February 21, 2014. Letters were mailed to properties within one thousand feet of the subject property and the property was posted on February 21, 2014.

STAFF OBSERVATION ITEM NO. 1: The Applicant is proposing to construct an "L" shaped dock consisting of a four feet (4'0") in width by thirty eight feet (38'0") in length access walkway and five feet (5'0") in width by thirty feet (30'0") in length terminal platform. The waterward edge of the proposed dock will be located at a maximum forty four feet and nine inches (44'9") from the property line along with mooring piles to be installed at fifteen feet (15'0") from the dock. The waterward distance for the mooring piles from the property line will be at fifty nine feet and nine inches (59' 9").

As illustrated by the location sketch attached completed by the Department of Permitting, Environment and Regulatory Affairs (PERA), the proposed design was necessary due to the presence of dense benthic resources between the property boundary and a waterward distance of thirty eight feet (38'0"). The location sketch includes physical and biological features of the project site. The Department of Permitting, Environment and Regulatory Affairs (PERA) 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 is not recommended, since dredging would result in impacts to water quality and the ecological resources in the area.

This property abuts Biscayne Bay, which 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 section 5-802 (C) of the Zoning Code.

Due to the special waterway conditions, mooring structures within twenty five feet (25'0") of the property line is not feasible at this site. The Zoning Division staff recommends APPROVAL of Item No. 1 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 findings:

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 create a special condition. Any installation of mooring structures must completely avoid impacting the natural resources.

2. That 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

naturally 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. Variances have been granted to other properties along Biscayne Bay with similar conditions.

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 Permitting, Environment and Regulatory Affairs (PERA) will not approve a five feet in width dock abutting the bank of the waterway or within the allowable twenty five feet (25'0") of the property line. PERA requires the dock to be located at a minimum of thirty eight feet (38'0") waterward projection distance due to the presence of benthic resources.

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 distance being requested for the dock and mooring piles is the minimum necessary as required by the Department of Permitting, Environment and Regulatory Affairs (PERA). 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 Board of Architects, the Department of Permitting, Environment and Regulatory Affairs (PERA), Coral Gables 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 of the Applicant's request.

Attorney Zeke Guilford representing Jeffrey C. Samas TRS owner of the property located at 6875 Sunrise Drive and Michael Griffith TRS owner of the property located at 6825 Sunrise Drive requested a deferral of the application to allow his clients sufficient time to review the proposed design for the dock and mooring piles.

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

RESOLUTION No. 5098-ZB

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

A Resolution was passed and adopted due to the following roll call: "Yeas"- Mr. Sotelo, Mr. Perez, Mr. Hidalgo, Mr. Galvez, Mr. Thomson, and Mr. Otero. "Nays"- Ms. Fuhrman.

4.

BA-14-02-1802
(1210 Palermo Avenue)
Lot: 10, Blk: 9
Country Club Sec. Pt. 1, PB/PG: 8/108
Maryann Pando-Avdakov -- Applicant
Thomas J. Zaydon Jr. and Yamila Nunez -- Owners
Steven Avdakov -- Architect

APPLICANT'S PROPOSAL: In connection with the proposed addition for the existing residence at the subject property, the Applicant requests the following variance 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 addition in conjunction with the existing residence to exceed the allowable floor area factor and maintain a square feet floor area of three thousand one hundred and twenty two (3,122) vs. the single family residence shall not exceed a maximum square feet floor area of two thousand nine hundred and twenty five (2,925) as required by Section 4-101 (D) (9) of the Coral Gables, "Zoning Code".

BOARD OF ARCHITECTS REVIEW: Preliminary approval on February 13, 2014.

ADVERTISING: This application was advertised in the Miami Daily Business Review on February 21, 2014. Letters were mailed to properties within one thousand feet of the subject property and the property was posted on February 21, 2014.

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 site area. The intent and purpose of the maximum floor area factor permitted is to limit the size and mass of a residence in relation to the building site.

The Applicant is requesting a variance to enclose an existing covered terrace at the rear of the building and be allowed to exceed the maximum square foot floor area permitted for this property site. The maximum floor area permitted is two thousand nine hundred and twenty five square feet (2,925). The proposed floor area, considering the new addition and the existing residence, is three thousand one hundred and twenty two square feet (3,122), totaling an excess of one hundred and ninety seven (197) square feet.

The Zoning Code has been amended and modified throughout the years. The regulations currently in effect are imposed on all properties. An undue hardship exists only if conditions and circumstances are unique to the property of the applicant. This situation is not unique if it is shared by other properties in the district. Staff was unable to identify any unusual or unique circumstances with the property site or the building.

As stated in Zoning Code Section 1-103 (E), the Zoning Code was implemented to preserve residential properties to assure that future development will be in conformity with the foregoing distinctive character, with respect to type, intensity, design and appearance.

The Zoning Code regulates the future growth and development of the community. The parameters are necessary for the public benefit and the ordinance should be observed.

Staff has reviewed the design and cannot find the proposal complies with six of the seven standards required for recommendation of a variance. The Zoning Division staff recommends **DENIAL** of Item No. 1.

STAFF RECOMMENDATION: Pursuant to **Section 3-806 STANDARDS FOR VARIANCES** of the "Zoning Code," the Zoning Division staff finds and the Board of Adjustment shall find as follows in regard to the Applicant's proposal as presented in their application for a variance from the provisions of Ordinance No. 2007-01, as amended and known as the "Zoning Code," and makes the following findings:

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.

The existing residence and property site do not exhibit any special conditions or circumstances. The property's rectangular configuration and size are similar to other residential lots in the city. Maximum square feet floor, area as required by the Zoning Code, is 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 proposed enclosure of the covered terrace, hence exceeding the maximum square feet floor area allowed for the property site, is 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 the building structure to exceed the allowable floor area permitted for the size of the lot.

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 maximum square feet floor area 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 exceed the maximum square feet floor area permitted for the lot, by one hundred and ninety seven square feet (197) is not a minimal request.

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 Zoning Code. The intent and purpose of the maximum floor area allowed is to limit the size and the mass of a residence in relation to the building site.

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

Ms. Pando-Avdakov explained the proposed addition would be enclosing an existing covered terrace within the footprint of the building. This was necessary due to the existing configuration of the residence and unusable lack of interior ground floor common area. She also stated the addition would not add any massing or bulk to the existing structure. Letters of no objection were received from several adjacent neighbors.

Mr. Galvez asked for clarification regarding the lot coverage allowed for this property site. Ms. Gonzalez, Secretary to the Board, explained the Zoning Code has been amended throughout the years and at the time the residence was built, this proposed enclosure would have been permitted.

Chairperson Mr. Otero made a motion to approve the requested variance; based on the fact the additional square feet requested would have been allowed under the previous Zoning Code's regulations.

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

Motion for Case No. BA-14-02-1802

1210 Palermo Avenue Residential Addition

GRANTING OF A VARIANCE

I move that the Board of Adjustment **GRANT** Application BA-14-02-1802, a request by Steven Avdakov, Architect, on behalf of Thomas J. Zaydon Jr. and Yamila Nunez, Owners, for a Variance for the existing residence at 1210 Palermo Avenue to allow the proposed addition in conjunction with the existing residence to exceed the allowable floor area factor and maintain a square feet floor area of three thousand one hundred and twenty two (3,122) square feet. The motion is based upon the testimony presented along with the application submitted and staff report, which constitute competent, substantial evidence. The Board hereby makes findings of fact that each of the standards in Section 3-806 of the Zoning Code **HAS** been met.

RESOLUTION No. 5099-ZB

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

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

5. Public Announcement

Pursuant to Florida Statutes 112.3143 Form 8B "Memorandum of Voting Conflict for County, Municipal and other Local Public Officers" was completed and filed by Board Member Mr. Oscar Hidalgo with reference to case no. BA-14-01-1674 (197 Leucadendra Drive.)

The form was publicly read into the record by Ms. Gonzalez.

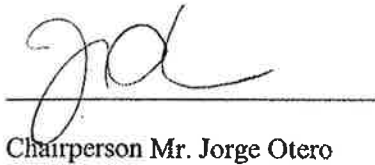
**THE CITY OF CORAL GABLES
BOARD OF ADJUSTMENT
MARCH 3, 2014**

**RECAP
PAGE 10**

Meeting adjourned at 8:45 a.m.

THE CITY OF CORAL GABLES
BOARD OF ADJUSTMENT
Elizabeth Gonzalez
Secretary

Approved



Chairperson Mr. Jorge Otero