

City of Coral Gables
CITY COMMISSION MEETING
October 13, 2015

ITEM TITLE:

Board of Adjustment Appeal – Application No. BA 12-12-3657 (4635 Granada Boulevard)

Mr. Leonardo L. Cornide, applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Board of Adjustment at its regular meeting of Monday, September 14, 2015, wherein it denied a variance request as outlined under the applicant's proposal.

SUMMARY OF APPEAL:

Mr. Leonardo L. Cornide, owner, (the appellant) has filed an appeal to the Coral Gables City Commission, from a decision of the Board of Adjustment at its regular meeting of September 14, 2015 whereby it denied Application No. BA 12-12-3657 for the property located at 4635 Granada Boulevard. The Board denied a variance request from Sections 4-101 (D) (4) (d) and 4-101 (D) (5) of the City of Coral Gables Zoning Code to allow the proposed gazebo to maintain twenty three feet eight inches (23'8") rear setback distance from the waterway.

The variance application was presented to the Board of Adjustment on May 4, 2015 whereby this item was deferred to allow the applicant the opportunity to consider design alternatives with recommendations from the Board of Adjustment. The applicant revised the original design and subsequently presented to the Board of Adjustment on September 14, 2015. The transcript for the September 14, 2015 hearing is Exhibit D. The applicant presented the item and the Board voted (5-1) to deny the variance request.

Mr. James Skinner residing at 746 Jeronimo Drive was present at the May 4, 2015 hearing and spoke in favor of the request. Staff received a letter from Brian M. Pelzman, Esq., after the September 14, hearing stating he had no objection. The letter is now part of the file.

Mr. Paul Savage, counsel representing immediate neighbors Mr. and Mrs. Gavarette located at 4615 Granada Boulevard, spoke in opposition of the request. Staff received a letter from Mr. Michael Steffens residing at 822 Jeronimo Drive in opposition of the request. The letter is part of the file.

On September 23, 2015, Mr. Leonardo L. Cornide, filed an appeal of the decision of the Board of Adjustment to the City Commission, as provided by the City of Coral Gables Zoning Code [Article 3, Division 6, Sections 3-605 and 3-606 (B)].

BACKGROUND:

The Board of Adjustment considered the application for the requested variance at its September 14, 2015 meeting. The Zoning Code is specific in requiring a rear waterway setback distance of thirty five feet (35'0") for the primary residence building and all auxiliary, accessory buildings and/or structures.

Staff found that the criteria for granting a variance as per Zoning Code section 3-806 was not met by the application and recommended denial of the variance. The standards are as follows:

1. That special conditions and circumstances 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 property site is larger than the average size with no unusual or exceptional circumstances.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Does not meet the standard required for authorization of variance.

The installation of the gazebo in the setback area would be a result of the construction being completed. The pool, spa, covered terrace and gazebo could all have been repositioned on the property that would not necessitate a variance.

3. That granting the variance requested will not confer on the applicant any 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 requested to allow auxiliary/accessory structures within the required setback area without having any unusual or exceptional circumstances would confer a special privilege that is not afforded to other properties.

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.

The Zoning Code's required setback distances are consistently applied throughout the City when considering auxiliary or accessory structures. Compliance with the setback requirements would allow the applicant to still enjoy the rights by other properties in the area.

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 distance encroaching into the rear setback is not minimal but significant. A different design or location should have been considered.

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 to allow the encroachment of the gazebo will not be in harmony with the general intent of the Zoning Code. The Zoning Code requires distances which maintain similar distances from the waterway for sight preservation of the waterway view.

8. The granting of the variance is appropriate for the continued preservation of an historic landmark or historic landmark district.

Does meet the standard required for authorization of variance.

The property is not a historic landmark or in a historic landmark district.

The application was presented to the Board by Mr. Leonardo L. Cornide, as well as Mr. Andres Alos and Ms. Martha Salazar-Blanco, both representing the applicant. They explained to the Board that the gazebo had been shifted as recommended by the Board at the previous hearing. Mr. Alos stated the gazebo's location was the only viable location due to irregularity of the lot boundaries. The transcript reflects that the Board asked several questions about the irregularity of the lot, current construction on the property including the swimming pool, covered terrace and remodeling of the existing residence. In addition, there was discussion by the Board members regarding possible redesign of all new structures in compliance with Zoning regulations, when the applicant was informed of the gazebo not being allowed to encroach into the required rear waterway setback.

Mr. Paul Savage, counsel for adjacent neighbor located at 4615 Granada Boulevard, spoke and identified his client's specific objection is to maintain the required waterway setback of thirty five feet unobstructed and maintaining a clear line of sight. The gazebo as proposed obstructs his client's view. No other persons sought to be heard with regard to the request.

The Board voted (5-1) to deny the requested variance.

On September 23, 2015 the appellant filed an Application for Appeal from the Board of Adjustment's decision at the Office of the City Clerk.

Exhibit A is the Notice of Public Hearing on the variance request. Exhibit B is the Notice of the Appeal. Exhibit C is the Application for Appeal. Exhibit D is the transcript of the hearing. Exhibit E is the September 22, 2015 letter informing the applicant of the Board's denial of the variance. Exhibit F Packet submitted to the Board of Adjustment (including Staff Report).

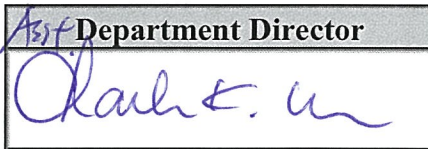
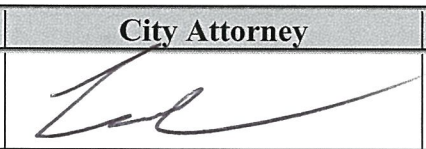

BOARD OF ADJUSTMENT ACTION(S):

Date	Comments (if any)
09/14/2015	Board denied the Applicant's request for a variance (5-1).

PUBLIC NOTIFICATION(S):

Date	Form of Notification
09/01/2015	Miami Daily Business Review Notice of Hearing on Variance
09/01/2015	Mailed Courtesy Notice of Hearing on Variance
09/01/2015	Sign posted on subject property
09/30/2015	Mailed Courtesy Notice of Hearing on Appeal
10/02/2015	Legal Ad - Notice of Appeal

APPROVED BY:

Department Director	City Attorney	City Manager
		

EXHIBIT(S):

- A. Notice of Public Hearing on Variance.
- B. Legal Ad - Notice of Appeal.
- C. Application for Appeal from Board of Adjustment decision filed at Office of the City Clerk.
- D. Transcript of the September 14, 2015 hearing of the Board of Adjustment.
- E. September 22, 2015 letter informing applicant of the Board's decision on the variance requests.
- F. Packet submitted to Board of Adjustment (including Staff Report).