

CITY OF CORAL GABLES
BOARD OF ADJUSTMENT
VERBATIM TRANSCRIPT
CORAL GABLES CITY HALL
405 BILTMORE WAY, COMMISSION CHAMBERS
CORAL GABLES, FLORIDA
MONDAY, MAY 6, 2019, COMMENCING AT 8:05 A.M.

Board Members Present:
Oscar Hidalgo, Chairman
Maria D. Garcia
Eugenio Lage
Jorge Otero
Michael Sotelo
John M. Thomson
City Staff and Consultants:
Ramon Trias, Planning Director
Stephanie M. Throckmorton, Assistant City Attorney
Arceli Redila, Principal Planner

ALSO PARTICIPATING:
Kirk Lofgren, Ocean Consulting, LLC
BA-18-19-04-5187
(10 Tahiti Beach Island Road)
LOT 1, BLOCK: 22
COCOPLUM SECTION 2 PLATE
Ocean Consulting, LLC - Applicant
Neil Flanzraich and Kira Flanzraich - Owners

1 Thereupon:
2 (Thereupon, the following proceedings were had.)
3 MR. HIDALGO: Also, we received an e-mail from
4 Board Member Gema Pinon that she was not going to be
5 able to make the meeting, so, if we can just take a
6 vote for her excused absence.
7 MS. GARCIA: I move to vote.
8 MR. LAGE: Second.
9 CHAIRMAN: There is a move and a second. I
10 think we are good.
11 THE SECRETARY: Ms. Garcia?
12 MS. GARCIA: Yes.
13 THE SECRETARY: Mr. Lage?
14 MR. LAGE: Yes.
15 THE SECRETARY: Mr. Otero?
16 MR. OTERO: Yes.
17 THE SECRETARY: Mr. Sotelo?
18 MR. SOTELO: Yes.
19 THE SECRETARY: Thomson?
20 MR. THOMSON: Yes.
21 THE SECRETARY: And, Mr. Hidalgo?
22 MR. HIDALGO: Yes.
23 Please be advised that this Board is a
24 quasi-judicial board and the items on the agenda are
25 quasi-judicial in nature, which requires Board

1 Members to disclose all ex parte communications and
2 site visits. An ex parte communication is defined
3 as any contact, communication, conversation,
4 correspondence, memorandum or any other written or
5 verbal communication that takes place outside a
6 public hearing between a member of the public and a
7 board member of a quasi-judicial board regarding
8 matters to be heard by the Board.
9 If anyone made any contact with a Board Member
10 regarding an issue before the Board, the Board
11 Member must state on the record the existence of the
12 ex-parte communication, and the party who originated
13 the communication.
14 Also, if a Board Member conducted a site visit
15 specifically related to the case before the Board,
16 the Board Member must also disclose such visit. In
17 either case the Board Member must state on the
18 record whether the ex parte communication and/or
19 site visit will affect the Board Member's ability to
20 impartially consider the evidence to be presented
21 regarding the matter.
22 The Board Member shall also state that his or
23 her decision will be based on substantial competent
24 evidence and testimony presented on the record.
25 Does any Board Member of the Board have such

1 communication and/or site visit to disclose at this
2 time?
3 Anyone? Any Board Member? No? If we can
4 swear in.
5 (Thereupon, the participant was sworn in.)
6 MR. LORGREN: I do.
7 CHAIRMAN HIDALGO: The first item, we'd like to
8 approve the minutes of our last meeting in December.
9 Is there a motion to approve those minutes?
10 MR. THOMSON: There is a motion.
11 MR. SOTELO: Second.
12 CHAIRMAN HIDALGO: It's been moved, and second.
13 Could you take a vote, please?
14 THE SECRETARY: Mr. Thomson?
15 MR. THOMSON: Yes.
16 THE SECRETARY: Mr. Sotelo?
17 MR. SOTELO: Yes.
18 THE SECRETARY: Mr. Otero?
19 MR. OTERO: Yes.
20 THE SECRETARY: Ms. Garcia?
21 MS. GARCIA: Yes.
22 THE SECRETARY: Mr. Lage?
23 MR. LAGE: Yes.
24 THE SECRETARY: Mr. Hidalgo?
25 CHAIRMAN HIDALGO: Yes. So, the first case on

1 our agenda today, the only case, is Case Number
 2 19-8623. If the City could please present the case.
 3 THE SECRETARY: Good morning Mr. Chairman and
 4 Members of the Board. Good morning. For the
 5 record, I am Arceli Redila from Planning and Zoning.
 6 The only item before the Board is Case Number
 7 BA-19-04-5187, and is asking for a Variance from
 8 Ocean Consulting, LLC, on behalf of the property
 9 owner Neil Flanzraich.
 10 This is a Variance request to allow an existing
 11 dock to be reconstructed within the same footprint,
 12 extending 29 feet and 11 inches from the property
 13 line into Biscayne Bay, where 25 feet is the maximum
 14 that is allowed.
 15 So, this property is located within Cocoplum
 16 Section 2. Here's an aerial of the site. You can
 17 see the existing docks. According to the applicant
 18 the dock was damaged during Hurricane Irma. As you
 19 can see right here, and that's the inclusion, and
 20 this is what they are proposing. The Code allows
 21 for 25 feet maximum.
 22 They are requesting 29'-11 inches which is four
 23 inches difference. But this dock as existed will be
 24 reconstructed in the same piling as the existing
 25 dock. There is a permit card but we cannot find any

1 the piling -- those pilings are proposed to remain
 2 but -- simply remove a concrete slab that was
 3 destroyed during the hurricane and we will be
 4 rebuilding over the top of the existing slab that
 5 remained.
 6 There are existing wood fenders that abut the
 7 outside edge of the concrete slab which that is also
 8 damages from the concrete piles, and then there are
 9 more pilings off shore of that to hold the vessel
 10 off of the dock.
 11 My third point really is just an outlier
 12 extension of the waterway. We're not in excess of
 13 what has been approved along this waterway. We are
 14 right at 49 feet and 11 inches, with the outside
 15 water crowd, the dock is at 29 feet 11.
 16 If you look down this waterway, the majority of
 17 the piles are extended to 45 to 48 feet. There are
 18 two docks that are extended out approximately 65
 19 feet and more. So, essentially, we are effectively
 20 in line with what was consistent along this
 21 waterway, which is necessary at this location, given
 22 that we have talked about this before. I'm here to
 23 address any questions, and I am happy to go through
 24 the presentation. Board, if you have any questions
 25 just let me know.

1 drawings to establish what formulates the dock. So,
 2 it's not in existence. So it's basically just
 3 putting back what was there before. So, with that,
 4 the staff is recommending approval and the applicant
 5 is here if you have any questions.
 6 MR. LORGREN: Good morning.
 7 CHAIRMAN HIDALGO: Good morning.
 8 MR. LORGREN: My name is Kirk Lofgren from
 9 Ocean Consulting, LLC, 340 Minorca Avenue, Suite 7
 10 in Coral Gables.
 11 Just real quickly, we're here to request
 12 permission to rebuild a dock that was destroyed by
 13 Hurricane Irma in 2017.
 14 Three quick points, and then I'm here to
 15 address any questions. The first is that we have
 16 approached both neighbors, and we have letters of
 17 consent from both neighbors on either side that are
 18 essentially approving our request for this
 19 adjustment, this Variance.
 20 In addition, we have DERM's preliminary
 21 approval and we have the State and the Federal
 22 approval, those permits already have been issued.
 23 And, the last thing, that I will reiterate what
 24 Arceli was discussing, we are rebuilding from the
 25 same footprint from the permit. We are not removing

1 CHAIRMAN HIDALGO: Did you sign in Mr. Lofgren?
 2 MR. LORGREN: Yes.
 3 CHAIRMAN HIDALGO: Do any of the Board Members
 4 have questions for Mr. Lofgren?
 5 MR. OTERO: I'm not sure if you received the
 6 old package with the Title and the Deed we received,
 7 which shows that the owner was to provide that he
 8 transferred fifty percent of his undivided interest.
 9 Do you know if the owner provided the other
 10 fifty percent?
 11 MR. LORGREN: That's a good question. I do not
 12 know.
 13 MR. OTERO: I think the City should be provided
 14 with the evidence that he already owned fifty
 15 percent because I think, to have the record clear, I
 16 think that probably would be a good thing to do.
 17 The second question I have is more directed to
 18 the City and the City Attorney. Everything you say
 19 make sense, but it seems that the legal rationale of
 20 what you're requesting is, that you are rebuilding a
 21 dock that was built perhaps without a Variance.
 22 In other words, the rationale for the Variance
 23 is that a dock already existed, as opposed to
 24 hardship, special conditions, et cetera. Is that
 25 sufficient for the City?

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1 Is that in the ordinance? I just don't know.
 2 I read this and there is nothing in here -- it's
 3 replete with rationale building and we're just
 4 rebuilding what was there. But there is no
 5 rationale on any of the eight conditions, other than
 6 the ones that say it is not different than the other
 7 neighbors, but if you have to agree with one through
 8 eight inconclusive, it does not.
 9 MS. THROCKMORTON: I'll will say this, they are
 10 existing -- which I believe is one rationale for
 11 this was, it would have been existing and performing
 12 uses. This is an extent of the rebuilding it and we
 13 are now where we require a Variance.
 14 I believe that's what the Variance was for
 15 today, to be in form with the code by getting a
 16 Variance. So it was a non -- I mean prior existing
 17 non-conforming use.
 18 MR. OTERO: That's correct. Clearly, you can
 19 interpret the evidence in a way you think is
 20 appropriate. The rule does provide to have
 21 competent evidence for you to make a judgment. Now
 22 it's true that part of the decision had to do with
 23 the fact that they are rebuilding something that was
 24 there before, but that in itself is an unusual
 25 circumstance. Also, you can see and go through the

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1 MR. LOFGREN: That is exactly what we're
 2 saying, but the record was not complete when we went
 3 to look for it, and we found a permit card, that
 4 Arceli mentioned that there was not a complete set
 5 of plans to reconfirm the Variance issued for it.
 6 But we believe that this is a legally existing dock,
 7 and we're requesting to rebuild it from the Variance
 8 issued from the original build.
 9 CHAIRMAN HIDALGO: So by virtue of finding a
 10 card, and knowing that inspections were approved, I
 11 guess that's how you all deduce that there had been
 12 a permit, but we don't have the documents for it?
 13 MR. LOFGREN: Correct. As well as the historic
 14 dates. If you look at the dock dates prior back to
 15 Hurricane Andrew in 1991 -- in 1992, sorry. This
 16 dock was built between 1991 and 1992. And there was
 17 a permit card issued in 1991. I don't know if there
 18 was another card found, but I don't know that there
 19 was.
 20 MS. REDILA: That was the only card I found.
 21 MR. LOFGREN: So the dock has not changed
 22 between then and today. If you look at the aerial
 23 picture which is the history of the case --
 24 MR. CHAIRMAN HIDALGO: And the aerial also
 25 indicates that there are two moore [sic] piles

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1 different eight items, each of them is explaining,
 2 that is why it meets the standard, that is from the
 3 State of Professional Standards that gives you
 4 evidence that you obviously interpret as you think
 5 is best. So that is the reason why that was written
 6 that way.
 7 MS. THROCKMORTON: And just to be clear, if the
 8 documents had not been destroyed and Code went to
 9 look at it, it would be in existence and
 10 non-conforming use?
 11 MR. TRIAS: Yes.
 12 MS. THROCKMORTON: So by virtue of the fact
 13 that it was destroyed, they are coming now for the
 14 first time requesting the Variance. There is no
 15 history that the documents partially existed.
 16 MR. TRIAS: We did not find a permit, but that
 17 does not mean that there was not a permit at that
 18 the time or they went through some process. We just
 19 didn't find one. I don't know if the Applicant
 20 found it either, so that's the condition.
 21 MR. LOFGREN: We believe there was a permit.
 22 We know there was a permit issued in 1991.
 23 MR. OTERO: Where does it mention the dock had
 24 a historic permit? I'm not sure what that means,
 25 "historic permit" maybe it may mean a prior permit.

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1 existing there originally, also?
 2 MR. LORGREN: Correct. In cases like this,
 3 what we like to do, we like to approach the
 4 neighbors to be sure that the neighbors are okay
 5 with what is proposed, and we do have sign-offs from
 6 both neighbors, which I think is an important point,
 7 that they have no objection, that it is consistent
 8 with what we are seeing along this waterway as well.
 9 MR. OTERO: Would it be safe to assume that
 10 whatever was required when the permit was pulled
 11 included a request and approval for a Variance or
 12 are we just basically re-stamping it, because if we
 13 are not, then the premise is, if we re-build
 14 something, we don't need to pull a criteria --
 15 MS. THROCKMORTON: Assuming that the code
 16 provision was the same when the dock was built,
 17 which I'm not sure of the history of the provision,
 18 whether or not it was 25 feet at the time that the
 19 dock was built, it was legally built within
 20 Variance, it would seem to me that the provision was
 21 in place for a long time, so they may have had to
 22 request a Variance then.
 23 MR. THOMSON: So anybody has to comply with the
 24 Variance for a destroyed facility and come back and
 25 re-apply.

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1 MS. THROCKMORTON: Yes.

2 CHAIRMAN HIDALGO: Yes.

3 MR. THOMSON: And given the interest, it was a

4 forth Trust as far as the Homestead Exemption

5 Permission, they did that so they can get the

6 Homestead Exemption.

7 CHAIRMAN HIDALGO: Any other comments before we

8 close up? Any other comments from the Board

9 Members? Does any Board Member have a motion to

10 make? Please review the documents that was issued

11 when we present any motion and the verbiage included

12 on the bottom of this attachment.

13 MS. THROCKMORTON: Mr. Chairman, I think he

14 said that the only thing that was pending is

15 approval from the Board of Adjustment, he is still

16 waiting on DERM.

17 MR. LOFGREN: So the way that DERM operates,

18 they will give what is called a preliminary stamp of

19 approval, and from there we approach the City for a

20 building permit. We also go to the HOA first. And

21 then the HOA has to give their stamp of approval as

22 well.

23 So effectively, the City permit is the only one

24 that is pending, and then going back to DERM and

25 they issue their final. The County's Constructual

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1 MR. THOMSON: It looks like there is.

2 CHAIRMAN HIDALGO: There is a motion and a

3 second. Can we take roll please?

4 THE SECRETARY: Mr. Thomson?

5 MR. THOMSON: Yes.

6 THE SECRETARY: Mr. Otero?

7 MR. OTERO: Yes.

8 THE SECRETARY: Mr. Sotelo?

9 MR. SOTELO: Yes.

10 THE SECRETARY: Mr. Lage?

11 MR. LAGE: Yes.

12 THE SECRETARY: Ms. Garcia?

13 MS. GARCIA: Yes.

14 THE SECRETARY: Mr. Hidalgo?

15 CHAIRMAN HIDALGO: Yes. The motion is

16 approved.

17 MR. LOFGREN: Thank you.

18 CHAIRMAN HIDALGO: Thank you. We are now

19 adjourned. Do any Board Members have any other

20 business?

21 MS. THROCKMORTON: Mr. Chair, this is Mr.

22 Cejas, this is the first meeting you all have had

23 since he joined the City.

24 MR. CHAIRMAN HIDALGO: Good morning, Mr. Cejas.

25 MR. CEJAS: I am a new hire, Deputy Development

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1 are ready and pending.

2 MS. THROCKMORTON: Perfect. Thank you.

3 CHAIRMAN HIDALGO: Are there any motions?

4 MR. OTERO: I'd like to move that the Board of

5 Adjustment approve application BA-19-04-5187 in

6 question by Ocean Consulting, LLC, on behalf of the

7 property owner Neil Flanzraich for a Variance to

8 allow the existing dock to be reconstructed within

9 the same footprint extending 29-feet and 11 inches

10 from the property line into Biscayne Bay at the

11 single family home at 10 Tahiti Beach Island Road.

12 The motion is based on the testimony presented

13 along with the application submitted and the staff

14 report which constitutes competent and substantial

15 evidence. The Board hereby makes a finding of fact

16 in Section 3-806 of the Zoning Code.

17 MR. CHAIRMAN HIDALGO: Is there a motion? Is

18 there a second?

19 MR. THOMSON: Second. I would like to point

20 out that the investment Trust is fifty percent on

21 the Warranty Deed. There are two owners to the

22 property, a husband and wife.

23 MS. REDILA: I don't know, but to clarify, the

24 property appraiser has two owners. Probably the

25 Warrant Deed states fifty percent.

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1 Services Director and Zoning Official, and I am

2 looking forward to working along with you.

3 THE SECRETARY: And Mr. Chair, next month we

4 are anticipating two items for the Board to

5 consider.

6 CHAIRMAN HIDALGO: Any other comments from the

7 Board? Any other business from the City?

8 MS. THROCKMORTON: And as Ms. Garcia pointed

9 out, Mr. Quesada is no longer with the City, and he

10 reach out to Commissioner Fors who has taken his

11 spot to continue his roll on the Board.

12 MS. GARCIA: Yes, he did. In the affirmative.

13 CHAIRMAN HIDALGO: Thank you. The meeting is

14 adjourned.

15 (Thereupon, the meeting was concluded at

16 8:40 a.m.)

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CERTIFICATE

STATE OF FLORIDA)
SS.
COUNTY OF MIAMI-DADE)

I, DINORA GOMEZ, Registered Professional Reporter and Notary Public, in and for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 20th day of May, 2019.

Dinora Gomez

My Commission expires:
7/19/2020