

**Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, May 9, 2007 – 6:30 P.M.
City Hall City Commission Chambers – 1st Floor
100 North Andrews Avenue
Fort Lauderdale, Florida**

<u>Board Members</u>	<u>Attendance</u>	Cumulative 2007	
		<u>Present</u>	<u>Absent</u>
1. Gus Carbonell	A	2	2
2. Gerald Jordan	P	4	0
3. Don Larson	P	4	0
4. Scott Strawbridge	P	3	1
5. Fred Stresau	P	4	0
6. Birch Willey	P	4	0
7. Binni Sweeney, Chair	P	4	0

Alternates

David Goldman	P	4	0
Kenneth Strand	P	3	1

Staff

Bob Dunckel, Assistant City Attorney
Don Morris, Planning & Zoning
Jamie Opperee, Recording Secretary

Guests

Dana Dickinson	Ed Jordan
Adriane Reeseey	Tim Singer
Ann Perley	Gordon Stene
Dave Dickinson	

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Report and for the Good of the City

Call to Order

Chair Sweeney called the meeting to order at 6:30 p.m., then proceeded to introduce the members of the Board and explain the procedure that would be followed during the meeting.

Approval of Minutes

Motion made by Mr. Larson and seconded by Mr. Jordan to approve the minutes of the April 2007 Board of Adjustment meeting. Board unanimously approved.

Board members disclosed communications they had regarding agenda items.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

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1. APPEAL NO. 07-14

APPLICANT: Dana R. Dickinson

LEGAL: "Victoria Highlands AMD Plat", 15-9 B PT, Blk 1, F/P/A Lot 10 W 20 of S 110, 11 S, 110 BLK 3 Victoria Highlands

ZONING: RS-8 (Residential Single Family Low Medium Density District)

STREET: 716 NE 19th Avenue

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-2.2.Q.3 (Sight triangle)

Requesting a variance to allow a 6 foot privacy fence to encroach into the required 25 foot sight triangle at 19th Avenue and NE 7th Court, up to property line where Code requires said fence not to exceed 2.5 feet in height.

APPEALING: Sec. 47-19.5.B (Fences, walls and hedges)

Requesting a variance to allow a 6 foot privacy fence located in the sight triangle to set back 0 feet, where Code requires a 3 foot minimum setback.

Mr. Morris had distributed copies of the current pool, spa and hot tub safety requirements to the Board.

Ms. Dana Dickinson, applicant, explained that she had purchased the house in 2001, in large part because of the pool and fence. Keeping the yard enclosed was important to her because of her dogs. She said the pool and fence were built to code in 1986. Hurricane Wilma had damaged her fence in 2005, and the fence was repaired to existing code, except for the southeast corner. She had included surveys from 2001

and 2007 in her application showing that all the repaired fence except that corner met current code.

Ms. Dickinson said the fence was repaired in the same spot in which it was originally installed in 1986, and no one realized that this was not compliant with current code until later.

Ms. Dickinson presented photos depicting the hurricane damage to the fence, and where a new fence would need to be constructed in order to meet existing code. She noted that relocating the fence would interfere with mature landscaping, the paved deck, the pool, electrical and plumbing lines.

Ms. Dickinson showed photos of the street intersection, demonstrating that the fence did not interfere with traffic visibility.

Ms. Dickinson explained that she had visited neighbors to get their feedback as to whether the fence interfered with traffic views, presenting a safety hazard, and if they liked the fence as it was. She had spoken with many neighbors who used the road daily, and they had signed a letter stating they did not object to her request for a variance. She provided over 20 letters of support from neighbors to the Board.

Ms. Dickinson informed Chair Sweeney she had pulled a permit for the repair in 2005.

Chair Sweeney opened the public hearing.

Mr. Ed Jordan, neighbor, stated he had known the former owner, who installed the pool and fence, and noted that the installation was to existing code at that time. Mr. Jordan noted that the fence did not interfere with traffic views at the intersection.

Ms. Adriane Reese, neighbor, felt the fence did not present a safety issue, and she had no objection to it.

Mr. Tim Singer, neighbor, remarked on the improvements Ms. Dickinson had made to the property, and agreed that the fence did not present a visual hindrance when crossing the intersection.

Ms. Ann Perley, neighbor, said she used the road every day and had never felt her view was obstructed by the fence. She thought the fence was a beautiful addition to the neighborhood.

Mr. Gordon Stene, neighbor, read a letter from Adam Rigg, another neighbor who was opposed to the request for the variance. Mr. Rigg's letter stated that the fence was "illegally constructed..., without permits, and in violation of ... code, and as such essentially creates a problem for both traffic flow and visual aesthetics." The letter

added that “the City must consider the intent of future lawsuits from traffic accidents as a result of this visual impairment.”

The letter ended with Mr. Riggs stating that the fence was repaired “without regard for City or neighborhoods, as no permits were obtained, and no attempt was made to construct the fence to the building code” and asking the Board to require Ms. Dickinson to alter the fence to meet current codes and not grant the variance.

Mr. Stene said he understood that the pool was a problem, but felt that cars must exceed the stop sign in order to check the intersection before crossing. Mr. Stene felt the setback was “something that could be dealt with in . . . some type of negotiation between the owner and the City.” Regarding the fence, Mr. Stene said , “it should have been landscaped according to the bylaws.” Mr. Stene did not understand how a variance could be needed if a permit was issued for the fence.

Mr. Strawbridge clarified that contrary to the letter from Mr. Riggs, permits were issued for the original fence construction in 1986 and for the repair in 2005. Mr. Morris explained that the repair permit was issued, and after the repair was made, the inspection failed and Ms. Dickinson had needed to apply for the variance.

Chair Sweeney asked how long the fence repair had taken. Ms. Dickinson said it had taken seven to eight months. Mr. Morris did not know how long the permit was valid. Mr. Larson noted how long it had taken many people to have repairs done after the hurricanes.

Mr. Jordan said after the Board made a decision, Ms. Dickinson could return to the City to reopen the permit and have the inspection to close it.

There being no other members of the public wishing to address the item, Chair Sweeney closed the public hearing and brought the discussion back to the Board.

Mr. Larson said he had traveled the road himself and discovered there was no interference with traffic view on that corner.

Mr. Willey said they had many applicants over the years request variances to build fences in the sight triangle and he was troubled with considering this. He did not understand how the fence was permitted at six feet tall in the 25-foot setback.

Mr. Strawbridge complemented Ms. Dickinson on her preparation, and stated that the property was developed according to prevailing codes. He felt variances were granted for just this sort of circumstance, when repositioning the fence to meet current code would interfere with the existing pool. He felt the hardship was not self-created and was unique, as the result of a code change.

Mr. Stresau said when the ULDR was written, there was a section that addressed sight triangles, which he quoted, "The sight triangle requirements may be reduced from 25 feet to no less than 15 feet for the purpose of retaining existing, mature landscaping when the following conditions are present..." Mr. Stresau noted that this applicant met the first two conditions, and the third was contingent upon review by the City engineer on a case-by-case basis.

Mr. Stresau felt the creators of the ULDR recognized that there would be cases in which mature landscaping would exist in rights-of-way that might prevent an applicant from providing a 25 X 25 sight triangle, and allowed a reduction to "not less than 15 feet" subject to a review by the City engineer.

Mr. Stresau noted the Board was in a difficult position, as safety code required that the pool be fenced in to at least 48", which would violate the 2'6" sight triangle. He suggested the City engineer evaluate the situation and determine if the setback could be reduced to a 15 X 15-foot sight triangle.

Mr. Stresau noted that the two surveys showed the pool in different positions. He said that in the worst case, according to the surveys, an 18-foot sight triangle would put the fence outside the pool and at least three feet back from the sidewalk which would then meet current fence code. In that case, Mr. Stresau did not know if Ms. Dickinson must request a variance, provided she met the City engineer's recommendations.

Mr. Dunckel said this request was made under one code section: 47-2.2.Q.3, and Mr. Stresau had quoted another: 47-2.2.Q.4, and in the section to which Mr. Stresau referred, the reduction of the setback was not something to be granted by the City engineer, but was something subject to his review. Mr. Dunckel interpreted the code to mean that after the City engineer's review, the Board could grant that reduction. This would mean the applicant would not need to prove compliance with the criteria for a variance, but with the criteria in 47-2.2.Q.4.

Chair Sweeney advised Ms. Dickinson to request a continuance to allow her to meet with Mr. Morris and the City engineer at her property and request a reduction of the sight triangle. If the City engineer agreed, she could return to the Board of Adjustment for their approval. Mr. Morris noted that this code section referred to "mature landscaping" and not fencing, but acknowledged that the intent was to provide safe vision clearance. If the City engineer approved this, it would provide the Board with a certain comfort level that the intent of the ordinance had been met.

Ms. Dickinson requested a continuance; Mr. Morris recommended 60 days.

Mr. Dave Dickinson, Ms. Dickinson's father, asked what the purpose was of a continuance, versus asking for a vote from the Board this evening. Mr. Dunckel explained that if a vote was taken and the variance denied this evening, Ms. Dickinson must wait two years to apply again for the variance. Meeting with the City engineer

could allow her to be granted relief under the other code section, whose criteria were less stringent.

Motion made by Mr. Willey, seconded by Mr. Jordan, to grant a 60-day continuance. Board approved 7 – 0.

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Chair Sweeney thanked Ms. Blackman, Mr. Morris, Mr. Dunckel and the Board for helping her. The Board Thanked Chair Sweeney for her service.

There being no further business to come before the Board, the meeting was adjourned at 7:14 p.m.

Chair

Scott Strawbridge

ATTEST:

Travis Woods For Jamie Opperlee,
Recording Secretary

A digital recording was made of these proceedings, of which these minutes are a part, and is on file in the Planning & Zoning Offices for a period of two (2) years.
