

**BEFORE THE  
BOARD OF ADJUSTMENT  
OF THE CITY OF MIAMI BEACH, FLORIDA**



CFN 2007R0099677  
OR Bk 25318 Pgs 3198 - 3200; (3pgs)  
RECORDED 01/29/2007 11:38:27  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

IN RE: The application of  
**STANLEY DAVID FERGUSON**  
700-710 82<sup>ND</sup> STREET  
LOT 13 AND 14, BLOCK 5,  
BISCAYNE BEACH SUBDIVISION  
PLAT BOOK 44, PG 67;  
MIAMI-DADE COUNTY, FLORIDA

**MEETING DATE: SEPTEMBER 8, 2006  
FILE NO. 3246**

**ORDER**

The applicant, Stanley David Ferguson, filed an application with the Planning Department for variances associated with the construction of a new four (4) story, ten (10) unit townhome project, which will replace two (2) single story apartment buildings, to be demolished, as follows:

1. A variance to waive 10' - 0" of the required front yard setback of 20' - 0" in order to build the front façade of the building at 10' - 0" from the north property line.
2. A variance to exceed the maximum allowable projection of 25% (2'-6") into the required front yard by 60% (6'-0") in order to provide terraces at the ground floor with a projection of 85% (8'-6").
3. A variance to waive 10' - 0" of the minimum required drive width of 22' - 0" in order to build a drive with a width of 12' - 0".

Notice of the request for variance was given as required by law and mailed to owners of property within a distance of 375 feet of the exterior limits of the property on which application was made.

THE BOARD FINDS that the property in question is located in the RM-1 Zoning District.

THE BOARD FURTHER FINDS, based upon evidence, testimony, information and documentation presented to the Board, and portions of the staff report and recommendations, as applicable, which are incorporated herein by this reference, that with regard to the requested variance when conditioned as provided for in this Order:

*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;*

*That the special conditions and circumstances do not result from the action of the*

3

**Board of Adjustment Order: Meeting of September 8, 2006**  
**File No. 3246: Stanley David Ferguson**  
**700-710 82<sup>nd</sup> Street, Miami Beach, Florida**

*applicant;*

*That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;*

*That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;*

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

*That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and*

*That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.*

IT IS THEREFORE ORDERED, by the Board, that the variances as requested and set forth above be APPROVED with the following conditions to which the applicant has agreed:

1. The applicant shall comply with all the conditions imposed by the Design Review Board File No. 19318.
2. The proposed front terrace shall be revised to keep the same configuration and the same right angles but to provide a maximum projection of 6'-0".
3. All proposed walkways within the required yards shall have a maximum width of 3'-0".
4. A landscape plan prepared by a Professional Landscape Architect, for the entire site, inclusive of street trees as per the City of Miami Beach Master Street Tree Plan, shall be submitted to and approved by staff before a building permit is issued for construction.
5. The applicant shall comply with all conditions imposed by the Public Works Department.
6. The applicant shall obtain a building permit within eighteen months (18) months from the date of this hearing. If the building permit is not obtained within the specified time limits, the applicant shall, prior to expiration of such period, apply to the Board for an extension of time. At the hearing on such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this order shall subject the variance to Section 118-356, City Code, for revocation or modification of the variance.

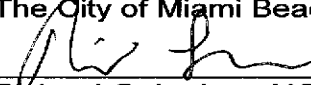
**Board of Adjustment Order: Meeting of September 8, 2006**  
**File No. 3246: Stanley David Ferguson**  
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7. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

PROVIDED, the applicant shall build in accordance with the plans submitted as part of this file and as approved by the Board of Adjustment with any applicable modifications. The applicant shall have a building permit for the work contemplated herein issued by the Building Department on or before March 8, 2008 (within eighteen months of the date of this hearing), otherwise this Order shall become null and void, unless the issuance of such permit is stayed by an appeal of this Order to a court of competent jurisdiction. This Order does not constitute a building permit, but upon presentation of a recorded copy of this Order to the Planning Department, a permit shall be processed and approved (subject to compliance with the conditions hereof) in accordance with and pursuant to the ordinances of the City of Miami Beach.

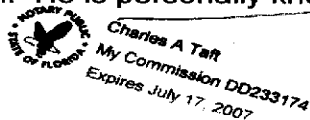
Board of Adjustment of  
The City of Miami Beach, Florida

By:

  
Richard G. Lorber, AICP  
Planning & Zoning Manager  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

STATE OF FLORIDA           )  
COUNTY OF MIAMI-DADE   )

The foregoing instrument was acknowledged before me this 5<sup>TH</sup> day of DECEMBER, 2006, by Richard G. Lorber, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.



Notary:

Print Name: CHARLES A. TAFT  
Notary Public, State of Florida

[NOTARIAL SEAL]  
My Commission Expires:

Approved As To Form:  
Legal Department (Filed 12-5-06)

Filed with the Clerk of the Board of Adjustment on 12/06/06 