

ORDINANCE NO. 2007-11

**AN ORDINANCE OF THE VILLAGE COMMISSION
OF THE VILLAGE OF BISCAYNE PARK, FLORIDA
AMENDING THE CODE OF ORDINANCE BY
CREATING A NEW SECTION ENTITLED
"ADMINISTRATIVE VARIANCES;" PROVIDING
FOR CONFLICT; PROVIDING FOR INCLUSION;
PROVIDING FOR SEVERABILITY; PROVIDING
AN EFFECTIVE DATE**

WHEREAS, Village staff has found that there are many instances where residents have a negligible existing encroachment of less than one foot, or ten percent, into the setback on their property; and

WHEREAS, at the present time, the costs and staff time expended in order to correct the encroachments is significant; and

WHEREAS, the Village Commission finds it to be in the best interests of the residents and citizenry to amend the Code of Ordinances relative to administrative variances;

**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE
COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

Section 1. Each and all the foregoing Whereas clauses are true and correct and are incorporated herein.

Section 2. The Code of Ordinances of the Village of Biscayne Park, Florida is hereby amended to create a new Section entitled "Administrative Variances," to read as follows:

Sec. . Administrative variances.

This part is established to provide standards and procedures for the granting of administrative variances of development standards for existing sites. Administrative variances are specifically intended to promote high standards of design, provide flexibility in the administration of standards in recognition of site specific conditions, and to establish conditions to ensure compatibility where standards are modified.

Administrative variances shall be limited to ten (10) percent of the affected setback or substantially similar dimensional requirement, up to a maximum of one (1) foot. The Village Manager shall be charged with the granting or denying of administrative variances. No administrative variance shall be granted unless the applicant clearly shows the existence of one of the following circumstances:

1. Superior alternatives - where the development will provide an alternative which will achieve the purposes of the requirement through clearly superior design.

2. Technical impracticality - where the strict application of the requirements would be technically impractical in terms of design or construction practices or existing site conditions. The degree of existing non-conforming conditions and the extent to which the proposed modification would lessen the nonconforming condition shall be specifically considered.

3. Protection of natural features, including trees, wetlands, archeological sites and similar circumstances.

4. Other technical, architectural or engineering reasons.

Section 3. Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

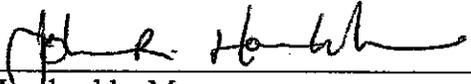
Section 4. Inclusion in Code. It is the intention of the Village Commission of the Village of Biscayne Park, Florida, that the provisions of this Ordinance shall become and be made a part of the Village of Biscayne Park Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

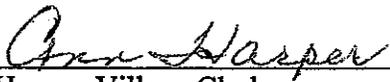
The foregoing Ordinance was offered by Commissioner Mallette, who moved its adoption. The motion was seconded by Comm Anderson and upon being put to a vote, the vote was as follows:

The foregoing ordinance upon being put to a vote, the vote was as follows:



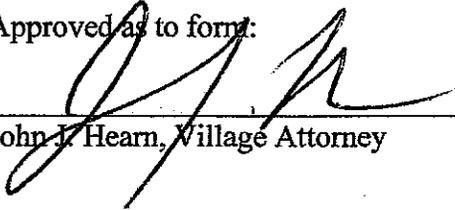
John Hornbuckle, Mayor

Attest:



Ann Harper, Village Clerk

Approved as to form:



John J. Hearn, Village Attorney

Mayor Hornbuckle: yes
Vice Mayor Anderson: yes
Commissioner Bernard: yes
Commissioner Mallette: yes
Commissioner Morris: yes

1st Reading - ~~September 4~~ ^{AUGUST 7}, 2007
2nd Reading - ~~October 2~~ ^{September 4}, 2007