

CITY OF CORAL GABLES  
BUILDING & ZONING DEPARTMENT  
BOARD OF ADJUSTMENT MEETING

RE:

CASE NO. BA-10-10 5515

(4995 HAMMOCK LAKE DRIVE)

LOT: 17, BLOCK: 3

HAMMOCK LAKE PARK, PB/PG: 44/87

JORGE L. HERNANDEZ - APPLICANT

JEFFREY AND CATERINA BARTEL - OWNERS

JORGE L. HERNANEZ - ARCHITECT

COPY

Commission Chambers  
405 Biltmore Way  
Coral Gables, Florida  
Monday, 8:00 a.m.  
December 6, 2010

1 BOARD MEMBERS PRESENT:

2 JOHN C. LUKACS, CHAIRMAN  
3 SERGIO ARTIGUES  
4 TONY BELLO  
5 DR. JOE BRIGGLE  
6 DR. KATHERINE DE BLIJ  
7 VIVIAN DE LAS CUEVAS-DIAZ  
8 JORGE MORA

9 FROM THE CITY:

10 MARTHA SALAZAR-BLANCO, ZONING OFFICIAL  
11 ELIZABETH GONZALEZ, ZONING TECH LEAD  
12 CARLOS A. MINDREAU, CITY ARCHITECT  
13 CARMEN OLAZABAL, BUILDING & ZONING DIRECTOR

14 ALSO PARTICIPATING:

15 JEFFREY BARTEL, OWNER  
16 JORGE L. HERNANDEZ, A1A, APPLICANT/ARCHITECT  
17  
18  
19  
20  
21  
22  
23  
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1 THEREUPON:

2 The following proceedings were had:

3 \* \* \* \* \*

4 (Thereupon, all who were to speak were duly  
5 sworn by the court reporter.)

6 \* \* \* \* \*

7 CHAIRMAN LUKACS: The second item this  
8 morning, BA-10-10-5515.

9 Elizabeth?

10 MS. GONZALEZ: Yes. This is the property  
11 located at 4995 Hammock Lake Drive.

12 The applicant is requesting two variances.  
13 The first variance is to exceed the maximum lot  
14 coverage permitted, and the second item is to  
15 exceed the maximum rear yard ground coverage  
16 permitted.

17 In your Staff Recommendations, it is noted  
18 that these cases were presented to the Board of  
19 Adjustment on October 3rd, 2006, and were  
20 approved. Several extensions were granted.  
21 However, these -- this variance has expired.

22 Staff would like to note a couple of  
23 issues. The plans do have some changes to  
24 them, not limited to, the detached pool  
25 pavilion being eliminated and adding bedrooms,

1 bath and closet. The total enclosed living  
2 area has decreased and the porch pavilions have  
3 increased, but most importantly, the overall  
4 total square feet has increased from the last  
5 approved variances.

6 This situation is not unique. This is a  
7 brand new residence. This lot is not unique in  
8 configuration. The intent and the purpose of  
9 the maximum lot coverage permitted is to limit  
10 the size and the mass of a residence in  
11 relation to the building site.

12 We know that -- We do note that Staff did  
13 recommend approval originally. However, Staff  
14 does not feel that this residence is in  
15 proportion and scale to the site area and we do  
16 not recommend approval or support the variances  
17 requested.

18 It's also important to understand that lot  
19 coverage is based, as I said, on the overall  
20 total square feet, and it does not separate or  
21 distinct -- distinguish the enclosed area from  
22 the porches or the terraces or the entries. It  
23 does not separate them. It is one number.

24 Staff does not recommend or support the two  
25 items requested.

1 CHAIRMAN LUKACS: Good morning.

2 MR. HERNANDEZ: Good morning.

3 MS. GONZALEZ: Oh, excuse me. We also have  
4 the City Architect, Mr. Carlos Mindreau, and  
5 Martha Salazar-Blanco, the Zoning Official, for  
6 any questions, if you all need.

7 CHAIRMAN LUKACS: Okay.

8 Do you wish to speak at this time, or would  
9 you prefer to speak in response to the  
10 applicant's presentation?

11 MS. SALAZAR-BLANCO: Only if you have  
12 questions.

13 CHAIRMAN LUKACS: Okay, very good.

14 Good morning.

15 MR. BARTEL: Thank you. Good morning,  
16 Mr. Chairman, Members of the Board. My name is  
17 Jeff Bartel. I'm the owner of the property.  
18 My address is 6909 Mindello Street, here in  
19 Coral Gables. I'm joined by the formal  
20 applicant, Jorge Hernandez, our architect.

21 We don't want to take a lot of your time up  
22 today. As the Zoning Staff has indicated,  
23 there are two requests before you today.  
24 Fortunately, we're blessed by having four of  
25 you who voted on this matter, four years ago,

1 on the body today.

2 If I could, Mr. Chairman, I'd like to give  
3 just a moment of history of the application,  
4 and guided with competent substantial evidence,  
5 if you don't mind.

6 CHAIRMAN LUKACS: That's good.

7 MR. BARTEL: Thank you, sir.

8 In 2005, my wife and I engaged  
9 Mr. Hernandez to design our home on Hammock  
10 Lake. We went through the processes we should.  
11 We did everything right. We came before this  
12 Board for two variances, lot area coverage/  
13 ground area coverage and rear lot area  
14 coverage.

15 At the time, your unanimous ruling was  
16 clear and unambiguous. My application  
17 satisfied each of the requirements for granting  
18 the variances. The Code provisions four years  
19 ago -- and this is very important, from a legal  
20 perspective -- have not changed one sentence,  
21 one phrase, one clause, or one word as to what  
22 you're doing today. Your decision was concise  
23 and it was unequivocal as the application of  
24 the law to my case, and my case this year is  
25 stronger than it was four years ago, and we'll

1 get into that in one moment, if you don't mind.

2 Pursuant to the requirements of the Code as  
3 set forth in Section 2-402, you applied your  
4 diverse qualifications and experience in the  
5 field of architecture, planning, engineering,  
6 construction, law and real estate, to render  
7 that decision. So, with the variance in hand,  
8 my wife and I moved forward towards the  
9 Building Department.

10 As you all know, taking nothing away from  
11 how long it takes in the City of Coral Gables  
12 to get things done, it's a long and arduous  
13 process. We went through the building permit  
14 process. We had to ultimately get an extension  
15 administratively done, to grant the extension  
16 of time for our vested rights for our variance,  
17 because that's what had to be done, and lo and  
18 behold, we had approval and got approval  
19 through every single section of the City of  
20 Coral Gables, particularly Zoning, first and  
21 foremost, so that's important to note.

22 So we had Zoning not only approve the  
23 application through the Board of Adjustment,  
24 but ultimately, the Zoning section approved it  
25 through building permit, and as we were waiting

1 for approval from Miami-Dade County DERM --  
2 enough said about Miami-Dade County DERM -- my  
3 wife and I found that I was promoted at my  
4 company, and they told me that I needed to move  
5 up to Juno Beach, Florida.

6 So we hemmed and hawed about it, what were  
7 we going to do, and I finally got approval,  
8 about a year or so later, from my CEO that I  
9 could stay here in Coral Gables, a community  
10 that I was born and raised in, that I've been  
11 in, my entire life, that my children go to  
12 school in. And so those vested rights expired,  
13 and we respect the fact that the Code said  
14 those vested rights expired, and if those  
15 vested rights had not expired, we could have  
16 come before, we would have been building that  
17 house, and we want to build that house today.

18 We went through the process for variance,  
19 the second time around, paid another \$15,000,  
20 application fees, for the Board of Architects  
21 and variances, to come before you today. But,  
22 with a little bit less money in our pockets,  
23 and the economy, we redesigned the house  
24 slightly, and these are the important, salient  
25 facts to note. The variance before you today



1 has two requests, ground coverage and rear lot  
2 area, and I'm going to take them in reverse  
3 order.

4 Jorge, if you don't mind --

5 MR. HERNANDEZ: Should I put the chart up?

6 MR. BARTEL: Yeah, just in front here.

7 MR. HERNANDEZ: If I may just hold it up --

8 MR. BARTEL: And for the clerk's benefit,  
9 by the way, let me go ahead and put the full  
10 copy of these exhibits, for the record, if I  
11 may.

12 MR. HERNANDEZ: This is in case I need to  
13 say a thing or two while Mr. Bartel is  
14 speaking; I will be able to hold up the chart  
15 and have the mike near me.

16 MR. BARTEL: So we redesigned the house,  
17 and making that very clearly, we shrunk the  
18 house in all respects. It was shrunk from  
19 front to back. It was shrunk from east to  
20 west. And the only thing we did, after  
21 shrinking the house, was to extend the porches  
22 around the edge.

23 With respect to the rear lot area coverage,  
24 what you granted me four years ago, as a vested  
25 right, is smaller today than it was four years

1 ago, smaller today than it was four years ago.

2 MR. HERNANDEZ: Can everybody see this? I  
3 apologize. That's the second item in the  
4 bottom. It was --

5 MR. BARTEL: 2006, this should be --

6 MR. HERNANDEZ: It was --

7 CHAIRMAN LUKACS: Gentlemen, gentlemen, we  
8 have a court reporter who needs to take down  
9 your testimony today, so one of you can speak  
10 at a time.

11 MR. HERNANDEZ: Yes, thank you very much.

12 It was -- The rear yard area asked for in  
13 '06 was 1,197, and now it's 1,090.

14 MR. BARTEL: Also important as part of the  
15 competent substantial evidence that we provided  
16 to you four years ago, and that you all  
17 deliberated upon and considered as part of the  
18 competent substantial evidence, was the fact  
19 that but for moving the house back from the  
20 front setback, and as the record shows, even  
21 today, the house is set back far beyond the 50  
22 feet. The house itself, I think, is moved back  
23 almost 20 percent farther from the street than  
24 we have to. Essentially, we've reduced our own  
25 rear lot coverage, and you all appreciated that

1 and recognized that, four years ago. But for  
2 that, we essentially wouldn't need a variance  
3 of any kind.

4 Also, importantly, the only neighbor who  
5 even views this property across the lake is one  
6 of the neighbors who wrote a letter of support  
7 for the application today, and I'll get into it  
8 in a moment, but you have nearly 20 letters of  
9 support from the neighbors, including an  
10 unqualified letter of support from the  
11 homeowners' association itself, fewer letters  
12 than we had four years ago. We have more  
13 letters of support today than we did four years  
14 ago.

15 So, as to the rear lot area coverage  
16 variance, the rationale that you all gave  
17 credence to, four years ago, absolutely applies  
18 today. We're not asking you to apply the  
19 wisdom of either Staff four years ago or Staff  
20 today. We're asking you simply to apply your  
21 own wisdom from four years ago on the same  
22 rationale that was granted, the same rationale  
23 that determined that we met each of the legal  
24 standards, each of the legal standards, four  
25 years ago.

1           As to the first request, which is ground  
2           area coverage, while Staff properly noted that  
3           we reduced the size of the air-conditioned  
4           space, what's also critically important is,  
5           this house literally was put in the dryer from  
6           four years ago. We have a little bit less  
7           money today. Imagine the fact the house has  
8           gotten smaller, but yet we have a difficulty in  
9           being able to potentially get our variance  
10          approved. There's one less bedroom and  
11          bathroom than there was four years ago. I  
12          think Staff made an incorrect statement. They  
13          said it was one more. There's actually one  
14          less bedroom and bathroom. The square footage  
15          of the air conditioned space is smaller.

16          Jorge, would you mind putting up --

17          MR. HERNANDEZ: The two renderings?

18          MR. BARTEL: Yes. Would you mind --

19          MR. HERNANDEZ: Sure.

20          MR. BARTEL: And by the way, the first  
21          rendering is the one you saw, yourselves, four  
22          years ago. We'll put, side by side, the one  
23          from four years ago and the one from today.

24          MR. HERNANDEZ: I apologize, because the  
25          one from four years ago has faded. So

1 Mr. Bartel is holding the rendering from four  
2 years ago, and this is the rendering today. In  
3 terms of architectural style, the house remains  
4 the same. It's in the American shingle style,  
5 one of the classic styles, in fact, one of  
6 the -- probably the first American style,  
7 generically American style, not derivative, but  
8 it remains the same, as he mentioned. The  
9 house, the house proper, is smaller, and the  
10 footprint of the house proper is smaller, and  
11 the floor area ratio of the house proper is  
12 smaller.

13 The only thing that happened is, when that  
14 occurred, when we shrunk the house, we wrapped  
15 this porch along the side. If you look at the  
16 '06 rendering, you'll see that there is a kind  
17 of solid area and a two-story turret, taken to  
18 the maximum height, allowable height --

19 MR. BARTEL: And this area was also  
20 eliminated, so -- These are just -- This is  
21 just the front elevation. I beg to you  
22 recognize that the back has also had area  
23 reduced, as well.

24 MR. HERNANDEZ: In essence, the house has  
25 been condensed. The house proper has been

1 condensed.

2 MR. BARTEL: What is also critical to note  
3 is the fact that the one question that was  
4 asked, four years ago, by this very body, with  
5 respect to the issue of porches -- and this  
6 body deliberated upon the fact that porches are  
7 included square footage, as Staff properly  
8 noted, and in its deliberation four years ago,  
9 as the verbatim transcript that you have before  
10 you from four years ago indicates, this Board  
11 expressly considered the issue of porches and  
12 the effect upon the house. So thus, the  
13 rationale four years ago that the Board had was  
14 solid, rock solid, unanimously so. The only  
15 changes that you have before you actually  
16 reduce the aesthetic impact of the residence,  
17 for the benefit of the neighborhood, and the  
18 neighbors, with all due respect to the Code --  
19 the Code cites the following as the unit's  
20 preamble. Under Article 1, it says: Provide  
21 for efficiency and economy in the process of  
22 stable and orderly development... in accordance  
23 with standards established by the will of the  
24 residents; protect the distinctive historic and  
25 architectural character of the City; continue

1 to foster community pride and a sense of  
2 stewardship that have motivated property owners  
3 and residents of the City.

4 I don't know what greater manifestation of  
5 pride, in the very fact that I'm coming before  
6 you today twice, to seek your approval for this  
7 application.

8 I leave you with the following, and this is  
9 a critical point to be made. There's only two  
10 neighborhoods in the entire City of Coral  
11 Gables where there's only a 15 percent lot area  
12 coverage. I wouldn't be before you today if  
13 this was any other neighborhood in the City  
14 other than Snapper Creek Lakes or Hammock  
15 Lakes. Those are the only two locations where  
16 there's a 15 percent lot area coverage.

17 MR. HERNANDEZ: And in that sense, they are  
18 unique.

19 MR. BARTEL: They are unique, and those are  
20 issues that are not brought upon by the  
21 applicant.

22 In 1996, Hammock Lakes was incorporated,  
23 was annexed to the City of Coral Gables. It  
24 would have otherwise had a 35 percent lot area  
25 coverage. It was the homeowner association

1       itself that petitioned the City, to request the  
2       reduced lot area coverage. That same homeowner  
3       association is one of the letters before you,  
4       that has asked you to support this application,  
5       and I'd like to read it verbatim, if I may, Mr.  
6       Chairman.

7       "We wish to express our support for the  
8       application and the two variance requests (lot  
9       area coverage and rear lot area) made therein,  
10      without qualifications or exception. The  
11      proposed residential project is fully  
12      compatible with the Hammock Lakes and  
13      surrounding neighborhood, and it would  
14      complement the architecture and environs of  
15      neighboring structures."

16      One more moment, since I'm under oath. The  
17      very same individuals who petitioned this City,  
18      four years ago, when it was annexed, to ask  
19      that the lot area coverage be reduced to 15  
20      percent, volunteered to come here this morning,  
21      and I told them they were not required to do  
22      so, because it was clear and unequivocal, this  
23      Board made its decision four years ago based on  
24      the exact same law, the exact same application  
25      of the exact same zoning provisions as apply



1           today.

2           And with that, Mr. Chairman, we're happy to  
3           answer any questions that you or members of the  
4           Board might have, but we'd ask you simply to do  
5           the following, to simply not rule against  
6           yourself. It sets a horrible precedent to do  
7           otherwise. It truly does.

8           Thank you, sir.

9           CHAIRMAN LUKACS: You're welcome. Thank  
10          you very much for the presentation. Let me ask  
11          you to do something for me, though. We have a  
12          new Board.

13          MR. BARTEL: Yes, sir.

14          CHAIRMAN LUKACS: Today is a new day.

15          MR. BARTEL: Yes, sir.

16          CHAIRMAN LUKACS: You're coming before this  
17          Board with an application and asking us to  
18          depart from specific lot coverage limitations,  
19          if you will. I'd like for you to speak to the  
20          issue of today, and why your application should  
21          be granted, in terms of the hardship that will  
22          result to you if a variance is not granted, and  
23          further, without regard for the fact that the  
24          Board, four years ago, may have considered an  
25          application that is substantially similar to

1 what is being presented today.

2 MR. BARTEL: Uh-huh.

3 CHAIRMAN LUKACS: Let's go on the merits of  
4 your application today, and without regard for  
5 the decision-making that occurred four years  
6 ago. Can you do that?

7 MR. BARTEL: I can, but I would also like  
8 to add the following, if I could, Mr. Chairman.  
9 I think it would be fair to say, from not only  
10 a legal perspective, but from an equitable  
11 perspective, if I had come here today, the day  
12 after my variance rights, the vested rights,  
13 had expired, this Board would be very hard  
14 pressed if I'd come in with the exact same  
15 application from four years ago. If I'd come  
16 in the day after it expired, this Board would  
17 be hard pressed to deny that application, when  
18 it had only done so and I was coming the day  
19 after. There's no difference between coming in  
20 one day after or, in this case, sadly, three  
21 years later, simply because of my  
22 circumstances. The very fact that I bring  
23 before you an application that's less intense  
24 in every respect than it was four years ago, in  
25 and of itself, is part of the competent

1 substantial evidence that you ask.

2 I would ask the following, if you asked me  
3 to set forth some of the rationale. I would  
4 ask to call as a witness, if you don't mind,  
5 Mr. Chairman, the -- Ms. Gonzalez, if I could,  
6 and I'm going to ask, if you could, to read  
7 into the record Staff observations from 2006,  
8 which, Mr. Chairman, go directly to the points  
9 that are applicable today. There is no  
10 difference, sir.

11 So, Ms. Gonzalez, I'm going to hand this to  
12 you, if you don't mind, and --

13 MS. GONZALEZ: I have it here in the  
14 packet, and they also have it in the packet.

15 CHAIRMAN LUKACS: We have it in the packet.

16 MR. BARTEL: Thank you.

17 CHAIRMAN LUKACS: It is a part of the  
18 record, and I think the reporter can reflect  
19 that you wish to have that considered by this  
20 Board, which we have been provided with. So we  
21 can dispense with the reading it into the  
22 record. Each of the Board members has been  
23 provided with a comprehensive packet, have  
24 reviewed it, and are prepared to listen to your  
25 presentation and that of Mr. Hernandez, and

1 make our decision accordingly.

2 MR. BARTEL: Thank you.

3 CHAIRMAN LUKACS: But getting back to my  
4 question --

5 MR. BARTEL: Yes, sir.

6 CHAIRMAN LUKACS: -- without regard to what  
7 occurred four years ago, will you please tell  
8 me what hardship will result to the applicant  
9 if a variance is not granted today?

10 MR. BARTEL: Absolutely.

11 CHAIRMAN LUKACS: In other words, by way of  
12 example, will the applicant be deprived of an  
13 opportunity to utilize this property? Will the  
14 applicant or is the applicant able to  
15 proportionately redesign the current design, in  
16 order to comport with the lot coverage  
17 limitations themselves? Things along those  
18 lines.

19 MR. BARTEL: Thank you. I'll just -- I'm  
20 finding the applicable provisions of the Code  
21 that speak specifically to the seven criteria,  
22 which is what I think you're getting to. So  
23 one moment, sir, if you don't mind.

24 I'm sorry for the delay.

25 CHAIRMAN LUKACS: Take your time.

1 MR. HERNANDEZ: We do have it in the Staff  
2 Report, as well.

3 MR. BARTEL: Yeah, it's in the Staff  
4 Report.

5 MR. HERNANDEZ: Can we get a copy of the  
6 Staff Report?

7 CHAIRMAN LUKACS: It would be on Page 7 --

8 MR. BARTEL: Here it is. I'm sorry. I've  
9 got it. I apologize. First of all,  
10 specifically, Section 3-801 of the Code sets  
11 forth the following, for the purpose and  
12 applicability of variances.

13 It says, the purpose is to -- of this  
14 Division is to establish a procedure for  
15 granting variances, where there are either  
16 practical difficulties or unnecessary and undue  
17 hardships -- and this is critical, because of  
18 this Board -- so that the spirit of these  
19 regulations shall be observed and substantial  
20 justice done. I'm quoting from the Code. It  
21 would be substantially unjust for this Board to  
22 deny a very right that was afforded to me four  
23 years ago.

24 As to, specifically, the seven criteria,  
25 sir, 1, that special conditions and

1 circumstances exist which are peculiar to the  
2 land, structure or building involved and which  
3 are not applicable to other lands, structures  
4 or buildings in the same zoning district.

5 Jorge, you may hit on that one.

6 MR. HERNANDEZ: There are number of things  
7 that are peculiar to the land surrounding it.  
8 First of all, as Mr. Bartel mentioned earlier,  
9 this, along with Snapper Creek, is a unique  
10 area in the Gables. It has a smaller, lesser  
11 ground area coverage than the rest of the City.

12 Secondly, there is the topography of the  
13 lot and a kind of wooded quality of the lot,  
14 and we're meaning to remain within that  
15 parameter or that canvas to produce this  
16 design.

17 MR. BARTEL: Thank you.

18 Also, it says, that special circumstances  
19 and conditions do not result from the actions  
20 of the applicant. As a matter of fact, just  
21 the opposite. It's the very fact that the  
22 vested rights expired by this City that certain  
23 changes exist, that I had to come before you  
24 today. It's not because of actions of my own  
25 that I had to come before you. If the vested

1 rights had never expired, I would have been  
2 able to build that house. As a matter of fact,  
3 let's put it very frankly. If I had built that  
4 home, taken to its logical extreme, could you  
5 imagine the City somehow could knock on the  
6 door today and say, "I'm sorry, Mr. Bartel,  
7 we've reviewed it again now in 2010. We don't  
8 like what you've built. We've changed our  
9 mind. The City has relooked at this, and we  
10 don't agree with what we did four years ago.  
11 You're going to have to knock down part of your  
12 house."

13 Obviously, the City could not do that, both  
14 legally and ethically. It would be impossible  
15 to do so.

16 CHAIRMAN LUKACS: It absolutely would be,  
17 and that would be because you would have  
18 exercised -- to have prevented it, you would  
19 have exercised a vested right. But we're not  
20 dealing with a vested right. We're dealing  
21 with a decision that you principally relied  
22 upon four years ago, has somehow given you a  
23 sense of entitlement to a specific decision by  
24 this Board today.

25 All we want to do is -- and what

1 your burden is, if you will, Mr. Bartel, is to  
2 simply demonstrate to us the hardship that  
3 results, by running through the criteria that  
4 are recognized in the Board, without regard to  
5 what happened four years ago, because we are  
6 dealing with a different day. We are dealing  
7 with the expiration of a right, and the fact  
8 that a decision was made some years ago really  
9 has no relevance to what is occurring today.  
10 We have a new application, a new project, a  
11 Code that we are charged with the  
12 responsibility of interpreting, and we're  
13 prepared to do that.

14 So, if I could have you go through that  
15 presentation of evidence as relates to the  
16 hardship, it would be great.

17 MR. BARTEL: And I know, Mr. Lukacs, as an  
18 attorney, you recognize, as well, this being a  
19 quasi-judicial body, that there is great  
20 respect and great understanding with respect to  
21 consistency of decisions, and the consistency  
22 of the decision four years ago is important.  
23 It sends a chilling effect to the ability of  
24 applicants, and for that matter, for anyone  
25 dealing with the City, to see a decision that



1 would be made differently, notwithstanding the  
2 fact that the law has not changed one sentence,  
3 not one clause or one phrase.

4 It says that the granting of the variance  
5 will not confer on the applicant any special  
6 privilege that's denied to other lands,  
7 buildings or structures in the same zoning  
8 districts.

9 Let me make very clear that a number of  
10 variances have been granted, pursuant to these  
11 regulations, to other homes within this zoning  
12 district. Not only that, there are homes  
13 within this zoning district that are both  
14 larger and some that are smaller than this  
15 home, some who have lot area coverages greater  
16 than 15 percent, and obviously larger, some  
17 that have lot area coverages less than 15  
18 percent. So this is not a right or privilege  
19 that would be different than those that exist  
20 to others within the neighborhood.

21 That the literal interpretation would  
22 deprive the applicant of rights commonly  
23 enjoyed by properties in other -- any other  
24 zoning district. Similar to what I just  
25 indicated to you, Members of the Board, the

1 very fact that there are other properties  
2 within this zoning district that have enjoyed  
3 the very rights that I'm seeking to have now.

4 That it is the minimum variance that will  
5 make possible reasonable use of the land,  
6 building or structure -- and I refer back to  
7 the fact, the very fact, that Mr. Hernandez can  
8 allude to. I'm not asking you to give me a  
9 house proper that is greater than 15 percent  
10 lot area coverage. The house itself is, I  
11 think, about 20 percent smaller than permitted  
12 by right, under FAR.

13 MR. HERNANDEZ: Under FAR, yeah.

14 MR. BARTEL: Yes. It is the minimum amount  
15 that would be permitted, and again,  
16 Mr. Chairman, with all due respect, the very  
17 fact that this Board, under the exact same law,  
18 as the finder of fact -- and the facts that you  
19 found four years ago are entirely consistent  
20 with what we're seeking today. So that is  
21 very -- it is a very important issue.

22 It will not change the use to one that is  
23 not permitted. I think that's the one matter  
24 where Ms. Gonzalez and we are in agreement.  
25 This is not a use variance today.

1           That the variance will be in harmony with  
2           the general intent of these regulations, and it  
3           would not be injurious to the area involved or  
4           detrimental to public welfare. I think the  
5           very fact that the neighbors themselves, who  
6           are the best interpreter of what is good for  
7           the neighborhood, have so unanimously sought  
8           the support of this Board, and the homeowner  
9           association itself, again, the very same  
10          homeowner association that asked the lot area  
11          coverage to be 15 percent, is begging this  
12          Board, along with me, for your approval.

13           And that the variance is appropriate for  
14          the continued preservation of an historic  
15          landmark; obviously, that doesn't apply here.

16           But, Jorge, would you mind showing, just  
17          for a moment, the shingle style home and the  
18          Merrick home?

19           This is an important feature, because I  
20          want to, again -- we're utilizing the Code as  
21          the basis upon which this Board needs to render  
22          its decision. Going back --

23           MR. HERNANDEZ: These boards were made to  
24          be viewed along with the perspectives, so let  
25          me pull them all out. So the renderings of the

1       home, both in '06 and today, shows a home of  
2       this same style and character, where the house  
3       proper is smaller and tucked within the shady  
4       recesses of the porches, and the porches either  
5       continuously wrap around the house proper or  
6       partially wrap around the house proper. They  
7       partially wrapped around the house in '06,  
8       because the house proper was larger in '06.  
9       They continuously wrap around the house proper  
10      now, because the house is smaller now.

11       The next two -- you've seen these, which is  
12      why I'm not really leaving them up for a great  
13      period of time, but the next two images, this  
14      is an image of a series of shingle style  
15      houses, as I said, typical in the Eastern  
16      Seaboard. The notion of the porch and the body  
17      of the house and the role of the porch in the  
18      architecture is evident in the photographs.

19       More importantly, when this came up in '06,  
20      we were under an interim Code, interim  
21      regulations of the Zoning Code, and although  
22      nothing that governs the ground area coverage  
23      has changed, either under that interim Code or  
24      now, we were required, back then, to come  
25      before a body, the Board of Architects, because

1 we did not have a City Architect then, so that  
2 that body could judge whether this is an  
3 approvable design or a design of exceptional  
4 merit, and if it were to have been judged as a  
5 design of exceptional merit, at that point in  
6 time, in '06, which it was, then it was allowed  
7 extra FAR, which we did not use then and we are  
8 not using now. But, for the record, it was  
9 deemed to be, by that professional Board, a  
10 design of exceptional merit.

11 Today, that Board doesn't exist, or that  
12 Board doesn't satisfy that function, I should  
13 say. Today, that Board does not satisfy that  
14 function, but the Board of Architects did  
15 approve the plans submitted today, and because  
16 we do have a City Architect, he was called in,  
17 and he did, in fact, rule or judge that this,  
18 in fact, is typical and is an example,  
19 essentially, of an American shingle style  
20 house.

21 Now, the second board that I have up is a  
22 house we all know very well. It's the Merrick  
23 House, which happens to be, in fact,  
24 stylistically, a shingle style house. If you  
25 look at the shingle style images that I showed

1       you, and you compare them to the Merrick House,  
2       many of the same features remain. There's a  
3       perimeter porch and there is this figure of the  
4       prominent gable. These are the things that  
5       were true then and remain true now and speak a  
6       little bit to the quality of the design.

7               MR. BARTEL: And, Mr. Hernandez, one  
8       important point, the relative percentage ratio  
9       of porch to home in the Merrick home, compared  
10      to my home.

11             MR. HERNANDEZ: Slightly greater than the  
12      application before you. So, even in the  
13      Merrick House, for example, that ratio of  
14      covered porch to house proper is slightly  
15      greater than the house -- than the Bartel  
16      project before you.

17             MR. BARTEL: So the provision, if I could,  
18      that relates specifically to preserving the  
19      intent of the City and its forefathers,  
20      specifically, George Merrick, in your  
21      professional opinion, would this house do so?

22             MR. HERNANDEZ: Yes, absolutely.

23             MR. BARTEL: Thank you very much.

24             Mr. Chairman and Members of the Board, I  
25      would ask you to not only look at the merits of

1 the case with respect to the facts before you  
2 and the law, but there's an issue, clearly, for  
3 this Board ruling against itself, and I  
4 respectfully understand, Mr. Chairman, the  
5 issue of the fact that this is a different day,  
6 but we're not dealing with a different court,  
7 if this were a court; we're dealing with the  
8 same court, not even dealing with a different  
9 set of judges. We're dealing with the same set  
10 of judges, four of you who have ruled  
11 unanimously in favor of this, four years ago,  
12 and I would just ask you to recognize the fact  
13 that we've brought forth to you today competent  
14 substantial evidence, and I'm not asking you to  
15 defer to the wisdom of either Staff's  
16 recommendation of '06 or of 2010. All I'm  
17 asking you to do is recognize that we brought  
18 before you today a case that stands on its  
19 merits for competent substantial evidence  
20 today, and that would be wholly consistent with  
21 the ruling you granted four years ago, that I  
22 relied upon for purposes of building my dream  
23 home, and that dream home not only is  
24 compatible with the City of Coral Gables, but  
25 the neighbors, who are the very individuals who

1 asked for lot area coverage to be 15 percent,  
2 agree with that, and our rear lot area coverage  
3 variance that we're seeking is less than it was  
4 four years ago. It would fly in the face of  
5 logic to do otherwise. And we would be happy  
6 to answer any questions that you or Members of  
7 the Board have. Thank you very much,  
8 Mr. Chairman and Members.

9 DR. DE BLIJ: I do have a question.

10 MR. BARTEL: Yes, ma'am.

11 DR. DE BLIJ: Why not move the house  
12 closer? Why have such a great setback, when  
13 that creates a position for which you have to  
14 ask for variances?

15 MR. BARTEL: It's a great point, and thank  
16 you for even asking it. When we were looking  
17 at what the proper setting was for this home,  
18 one of the critical things that we're trying to  
19 do is not create a McMansion. This is not a  
20 McMansion. We're trying to make sure it is  
21 pulled back from -- from the street as much as  
22 possible, and in doing so, the very fact the  
23 porches -- and I think, Jorge, could you speak  
24 to this issue better than I?

25 MR. HERNANDEZ: Well, the porches, in fact,



1       which are typical in this style, but more  
2       importantly, very appropriate in this climate,  
3       shade the house even more so. So, when we --  
4       If you look at the Snapper Creek regulations,  
5       the ones that are specific to Snapper Creek,  
6       there's a paragraph of the preamble, and the  
7       paragraph talks about the landscape being the  
8       defining character of this neighborhood, and so  
9       by setting the house back almost an additional  
10      10 feet, and planting the front of it, and  
11      creating a kind of row of porch in front of the  
12      house proper, all we're doing is giving to the  
13      public right-of-way the kind of image that the  
14      site-specific regulations of Snapper Creek  
15      lists as a preamble to the Code of Snapper  
16      Creek.

17           MR. BARTEL: Not Snapper Creek.

18           MR. HERNANDEZ: I'm sorry, I say Snapper  
19      Creek; I mean Hammock Lakes. So it says  
20      architectural type of Hammock Lakes: The  
21      primary architectural feature of Hammock Lakes  
22      is the landscape, which includes irregular  
23      topography, two lakes, stands of gumbo limbos,  
24      oaks, and other native vegetation. A  
25      predominant part of that landscape is the use