

CITY OF CORAL GABLES  
BOARD OF ADJUSTMENT MEETING  
VERBATIM TRANSCRIPT  
CORAL GABLES CITY HALL  
405 BILTMORE WAY, COMMISSION CHAMBERS  
CORAL GABLES, FLORIDA  
MONDAY, NOVEMBER 3, 2014, COMMENCING AT 8:00 A.M.

Board Members Present:

Jorge E. Otero, Chairperson  
Oscar Hidalgo, Vice-Chairperson  
Susan Fuhrman  
Alex Galvez  
Gustave Perez  
Michael Sotelo  
John M. Thomson

City Staff Present:

Elizabeth Gonzalez, Zoning Tech Lead  
Ramon Trias, Planning Director  
Charles Wu, Assistant Development Services Director  
Bridgette N. Thornton Richard, Deputy City Attorney

Case No. BA-14-07-3633

1501 BELLA VISTA AVENUE  
CORAL BAY SECTION C, PB/PG: 65-147  
LOT 23, BLK 7  
Elisa Johanna Berdugo Escorcia and Mark A. Seyforth -  
Applicants  
Elisa Johanna Berdugo Escorcia and Mark A. Seyforth -  
Owners  
Davidson Design Studio, Inc. - Architect

Also Participating: Mark A. Seyforth

1 THEREUPON:

2 The following proceedings were had:

3 CHAIRMAN OTERO: Good morning.

4 VARIOUS BOARD MEMBERS: Good morning.

5 CHAIRMAN OTERO: Whoa. That's a new one.

6 The Board of Adjustment is comprised of  
7 seven members. Four members of the Board shall  
8 constitute a quorum and the affirmative vote of  
9 four members of the Board present shall be  
10 necessary to authorize or deny a variance. A  
11 tie vote shall result in the automatic  
12 continuance of the matter to the next meeting,  
13 which shall be continued until the majority is  
14 achieved. Since we have the full panel  
15 present, we don't need to go into what happens  
16 if only four are present.

17 Lobbyists. Any person who acts as a  
18 lobbyist pursuant to the City of Coral Gables  
19 Ordinance Number 2006-11 must register with the  
20 City Clerk prior to engaging in lobbying  
21 activities or presentations before City Staff,  
22 Boards, Committees and/or the City Commission.  
23 A copy of the ordinance is available in the  
24 Office of the City Clerk. Failure to register  
25 and provide proof of registration shall

1 prohibit your ability to present to the Board.

2 I now officially call the City of Coral  
3 Gables Board of Adjustment Board meeting of  
4 November 3, 2014. The time is 8:01 a.m.

5 Roll call, please?

6 MS. GONZALEZ: Mr. Hidalgo?

7 MR. HIDALGO: Present.

8 MS. GONZALEZ: Ms. Fuhrman?

9 MS. FUHRMAN: Present.

10 MS. GONZALEZ: Mr. Galvez?

11 MR. GALVEZ: Present.

12 MS. GONZALEZ: Mr. Perez?

13 MR. PEREZ: Present.

14 MS. GONZALEZ: Mr. Thomson?

15 MR. THOMSON: Present.

16 MS. GONZALEZ: Mr. Sotelo?

17 MR. SOTELO: Present.

18 MS. GONZALEZ: Mr. Otero?

19 CHAIRMAN OTERO: Present.

20 Important notice regarding ex-parte  
21 communications. Please be advised that the  
22 items on the agenda are quasi-judicial in  
23 nature, which requires Board members to  
24 disclose all ex-parte communications and site  
25 visits. An ex-parte communication is defined

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

24 Does any member of the Board have such a  
25 communication and/or site visit to disclose at

1           this time?

2           Let the record show no Board member  
3           disclosed such communication.

4           Swearing in. Everyone who speaks this  
5           morning must complete the roster on the podium.  
6           We ask that you print clearly so the official  
7           records of your name and address will be  
8           correct.

9           Now, with the exception of attorneys, all  
10          persons who will speak on agenda items before  
11          us this morning, please rise to be sworn in.

12          (Thereupon, Mr. Seyforth was duly sworn by  
13          the court reporter.)

14          CHAIRMAN OTERO: Thank you.

15          In deference to those present, we ask that  
16          all cell phones, pagers and other electrical  
17          devices be turned off.

18          Now we will proceed with the agenda.

19          Liz, are there any changes to the agenda?

20          MS. GONZALEZ: No, sir.

21          CHAIRMAN OTERO: We have a three-part case,  
22          and Liz, will you please present?

23          MS. GONZALEZ: Yes, sir.

24          The property address is 1501 Bella Vista  
25          Avenue. This neighborhood is commonly known as

1 Gables By The Sea. There are three variance  
2 requests being presented at this time. I'm  
3 going to present them all three at the same  
4 time, but individually.

5 The first request is to allow a chickee hut  
6 that has been built without approval and permit  
7 from the City of Coral Gables to maintain a  
8 palmetto palm thatched roof. The Coral Gables  
9 Zoning Code is very specific in allowing  
10 roofing materials such as coral rock slabs,  
11 slate, copper in its natural state, barrel  
12 tile, flat tile. However, palmetto palm is not  
13 an allowable material. The chickee hut was  
14 constructed in the rear of the property. This  
15 property abuts the waterway.

16 This is -- The dashed line is the setback  
17 line of what would be required as a rear  
18 setback property. There's a reflecting pool  
19 surrounding the chickee hut.

20 You received your packet, and you can see  
21 that a little bit more clearly. There is a  
22 wood deck, also, as its flooring.

23 Florida Statute allows chickee huts  
24 constructed by the Miccosukee Tribe of Indians  
25 or the Florida Seminole Tribe to be built

1 without a permit from the Florida Building  
2 Code. However, the City does require approval  
3 and permit for the materials and the location.

4 In the past, chickee huts have been allowed  
5 by variances as approved by the Board of  
6 Adjustment. We have received documentation  
7 that the chickee hut was constructed by  
8 Mr. Elbert Snow, who has provided  
9 documentation. He is a member of the Seminole  
10 Tribe of Florida. The 264-square-foot chickee  
11 hut's frame is constructed entirely of beams  
12 and columns out of cypress with a pine wood  
13 deck flooring. We normally think of the  
14 chickee hut as a gazebo in combination with a  
15 trellis, and that's why we allow the chickee  
16 huts to be built.

17 With regards to Item Number 2, it is a  
18 variance request with regards to the location  
19 of the chickee hut, to maintain a rear waterway  
20 setback of fifteen feet, six inches, versus  
21 twenty feet, as required by the Zoning Code.

22 And Variance Number 3 is to allow the wood  
23 deck and the chickee hut to maintain a side  
24 setback of seven feet, four inches, versus ten  
25 feet, as required by the Zoning Code.

1           In your packet, you have also received a  
2           copy of the survey of the property, and I'll  
3           bring that forward so you can see it here.  
4           This is an aerial view of where the property is  
5           located. As you can see, it's on the waterway.  
6           The chickee hut is in this location.

7           We've also received a notice of no  
8           objection, a letter of no objection, from this  
9           neighbor directly to the east.

10          This is a waterway view of the chickee hut.  
11          There's a lot of foliage on the side and on the  
12          rear of the property. It does not have any  
13          electrical or plumbing, and it is entirely out  
14          of wood.

15          This is a survey of the property, and this  
16          is exactly where it is right now. There is a  
17          reflecting pool or pond surrounding it. As you  
18          can see, the lot is a very typical lot. It is  
19          105 by 120. The City cannot find any  
20          extraordinary or unusual circumstances with the  
21          lot. Therefore, the City cannot recommend  
22          approval of Variance Item Number 2 and Number  
23          3. We do recommend approval of Item Number 1.

24          CHAIRMAN OTERO: Before we hear from the  
25          applicant, do we have questions for Staff? And



1 I think it would be a good idea to present  
2 them, one of the variances at a time.

3 So, as to the first variance, Liz, I have a  
4 question.

5 MS. GONZALEZ: Yes, sir.

6 CHAIRMAN OTERO: The statutory provision  
7 that allows the materials to be built, does it  
8 waive the need for a permit?

9 MS. GONZALEZ: It does not waive the need  
10 for a permit from the City of Coral Gables,  
11 from Zoning.

12 CHAIRMAN OTERO: Was a permit requested?

13 MS. GONZALEZ: Was a permit obtained or --

14 CHAIRMAN OTERO: Either one.

15 MS. GONZALEZ: No, not from the City.

16 CHAIRMAN OTERO: How would that be cured,  
17 if that was to be cured?

18 MS. GONZALEZ: They can obtain a permit  
19 after the fact.

20 CHAIRMAN OTERO: But for Items 2 and 3,  
21 which relate to zoning, would a permit likely  
22 be granted or denied because of the exemption?

23 MS. GONZALEZ: The exemption only allows  
24 them to build it without the Florida Building  
25 Code getting involved. They still have to

1       abide by the Zoning Code and approval from the  
2       City of Coral Gables.

3               MR. GALVEZ:   How was this found?   How was  
4       this variance found?

5               MS. GONZALEZ:   It was a complaint, and it  
6       was notified to Code Enforcement.

7               CHAIRMAN OTERO:   I'm sorry, was it a  
8       complaint or was it --

9               MS. GONZALEZ:   An anonymous complaint was  
10       received by Code Enforcement, and then Code  
11       Enforcement referred to it me.

12              CHAIRMAN OTERO:   When was it built?

13              MS. GONZALEZ:   I believe, if I'm not  
14       mistaken, it's going on two years.   But  
15       Mr. Seyforth is here, the owner.   He can  
16       probably give us more of an exact date on that.

17              CHAIRMAN OTERO:   Okay.

18              MS. GONZALEZ:   The complaint was received  
19       in November of 2012.

20              CHAIRMAN OTERO:   What would be the  
21       consequences if the variances were denied?

22              MS. GONZALEZ:   He has the option to appeal  
23       to the City Commission.

24              CHAIRMAN OTERO:   And if denied, or the  
25       denial affirmed?

1 MS. GONZALEZ: If you deny it and the City  
2 Commission --

3 CHAIRMAN OTERO: Affirmed the denial.

4 MS. GONZALEZ: -- affirmed your denial,  
5 then after the City Commission, he can go to  
6 the Circuit Court.

7 CHAIRMAN OTERO: Would the ultimate result,  
8 if he does not succeed in obtaining variances,  
9 it would be to tear down the hut?

10 MS. GONZALEZ: He either would have to make  
11 it conform with whichever issue that you all  
12 deny and/or remove it completely, or he can  
13 appeal the decision.

14 CHAIRMAN OTERO: Thank you.

15 Any other questions?

16 MR. HIDALGO: I have a question. Regarding  
17 the setback, the rear setback, does that mean  
18 that the pool deck and part of that pool is  
19 also encroaching in the setback --

20 MS. GONZALEZ: No.

21 MR. HIDALGO: -- or is there a separate  
22 setback for the pool and the pool deck?

23 MS. GONZALEZ: That's correct. This pool  
24 and pool deck were built, I presume, prior to  
25 our Zoning Code change, but however, the pool

1 is not in the rear setback. It has a different  
2 setback requirement, and the deck is allowed to  
3 extend further into the rear setback as long as  
4 it's no wider than five feet.

5 MR. HIDALGO: So in violation of the  
6 setback is the gazebo and the wood deck, but  
7 not the water feature around the gazebo?

8 MS. GONZALEZ: The reflecting pool can be  
9 in the setback, that's correct. Reflecting  
10 pools or fountains are allowed to be in the  
11 side setback and rear setback. What is in  
12 violation of the setback is the chickee hut for  
13 the rear setback; however, the wood deck can be  
14 in the rear setback because it's on the  
15 waterway. So, then, Number 3 is the chickee  
16 hut and the wood deck for the side setback.

17 MR. HIDALGO: I guess this could have been  
18 avoided if the gazebo or the chickee hut would  
19 have been, I guess, either shifted down closer  
20 towards the street and closer to the pool, to  
21 get it away from the setback lines?

22 MS. GONZALEZ: I believe that the  
23 reflecting pool, which is right here, and you  
24 can see it clearer in your packet -- I'm  
25 assuming it's about five feet, that could have

1       made the difference. There's some area here.  
2       The chickee hut could have been built a little  
3       bit smaller, perhaps without the reflecting  
4       pool or pond.

5             Actually, it's six feet, according to the  
6       survey, the reflecting pool, the width -- six  
7       and a half feet here and six and a half feet  
8       here.

9             CHAIRMAN OTERO: Is the only setback  
10       violation the gazebo or the chickee hut?

11            MS. GONZALEZ: Number 2 is the setback  
12       violation for the rear waterway for the chickee  
13       hut.

14            CHAIRMAN OTERO: Right.

15            MS. GONZALEZ: Exclusively.

16            Number 3 is the setback violation for the  
17       chickee hut in conjunction with the wood deck,  
18       because wood decks are allowed to be in the  
19       rear waterway setback. That's why it's not  
20       incorporated into Number 2.

21            CHAIRMAN OTERO: So, but for the chickee  
22       hut, he would not need a variance for the deck?

23            MS. GONZALEZ: Well, the chickee hut was  
24       built in conjunction with the wood deck, so we  
25       look at it as one structure. If you approve

1 the material for the chickee hut, that's one  
2 structure. However, the wood deck is  
3 technically in violation of the side setback.

4 CHAIRMAN OTERO: Okay.

5 Any other questions from the Board of  
6 Staff?

7 Sir, your turn.

8 MR. SEYFORTH: Okay.

9 MR. HIDALGO: If you can sign in on the  
10 paper.

11 CHAIRMAN OTERO: Please sign in and put  
12 your name and contact information, clearly,  
13 and --

14 MS. THORNTON RICHARD: Sir, please state  
15 your name and address before you begin to make  
16 your case.

17 MR. SEYFORTH: Mark Seyforth. My address  
18 is 1501 Bella Vista Avenue, Coral Gables.

19 MS. THORNTON RICHARD: Thank you.

20 MR. SEYFORTH: What I'd like to do is  
21 basically talk about two issues. Obviously,  
22 one is, you know, why it was constructed and  
23 how it happened, and then secondly, you know,  
24 the financial hardship that I have if I have to  
25 do anything other than just hopefully get it

1 approved as it is.

2 When my wife and I -- I guess I can just  
3 look this way, over here. When my wife and I  
4 bought the home, about two years ago, it was --  
5 you know, like a lot of people, we were moving  
6 to Coral Gables and coming here to kind of  
7 retire and live the good life, and when we  
8 bought the home, you know, the back was pretty  
9 much of an eyesore in the neighborhood. As a  
10 matter of fact, that's why I was even  
11 surprised, you know, that somebody complained.  
12 In the first place, I didn't know I'd done  
13 anything wrong when I built it, because what  
14 happened is, my wife and I came down to this  
15 area, went around Coral Gables, and one of the  
16 things that we really loved was, we saw a lot  
17 of tiki huts. We saw them in parks, we saw  
18 them in recreation centers, we saw them in  
19 homes, and, you know, we thought it was  
20 beautiful. We thought, that is really nice,  
21 you know. So we're looking at our yard and  
22 it's an eyesore, I mean, a literal eyesore in  
23 the entire neighborhood, and so we said, "Let's  
24 build a tiki hut." So we did a little  
25 research, and it was our impression that there

1 was no permits required because it was built by  
2 the Miccosukee Indians and under no permitting  
3 required, and so we contacted a contractor and  
4 told him what we wanted to do, and he assured  
5 us, "Yeah, there's no issue, you can build your  
6 tiki hut." So we were happy, so we went about  
7 our way, you know, building our tiki hut.

8 Well, when they actually built it, I'd gone  
9 to work that morning, and when I came home in  
10 the afternoon, I mean, these guys were done,  
11 almost. I mean, they had four or five guys up  
12 there, already putting up the roof and putting  
13 the thatching on, and I'm going, "How can you  
14 build it that fast?" I mean, I thought, you  
15 know, it was going to be a little bit of a  
16 process, but -- and I looked at it and said,  
17 "Well, it's a little bigger than what I  
18 wanted," but, you know, they knew where we  
19 wanted to place the tiki hut, so they just went  
20 about putting it in, and so I looked at it and  
21 said, "Okay, well, it's a little bigger than  
22 what I kind of wanted it to be, but it looks  
23 nice," and then obviously, when we finished it,  
24 it really did make a difference to the home,  
25 and I don't think there's a neighbor anywhere



1 around that would complain about the look of  
2 this tiki hut. I mean, it improved the product  
3 aesthetically. I mean, it really makes a  
4 difference. If you look at the pictures, I  
5 mean, it's beautiful. It's really beautiful,  
6 so -- and it's a place that my wife and I enjoy  
7 using, and we have.

8 Well, obviously, I got, you know, contacted  
9 and told I was in violation and that I'd have  
10 to, you know, look at what I'd done and apply  
11 for permits, and so I started the process with  
12 Ms. Gonzalez and the City, and I've tried to be  
13 very cooperative in the process and provided  
14 whatever information and everything I need to  
15 do to get to this point, and again, all along,  
16 thinking, "Well, I really didn't think I did  
17 anything wrong and I know it improved the value  
18 of the property." My neighbor to the -- well,  
19 it's actually to the east, I mean, he's like  
20 one of the happiest people in the world, and  
21 obviously the setback, you know, it affects him  
22 if it affects anybody, because it's, I think, a  
23 10-foot setback on that side, and I think I  
24 moved it about two and a half feet too far, so  
25 I, you know, violated the setback by about two

1 and a half feet, I think, so -- but still, you  
2 know, it's within my property line, but he  
3 loves it. I mean, as a matter of fact, we got  
4 a letter from him, saying, "Hey, I don't see  
5 any issues with this. I love it." As a matter  
6 of fact, he comes over and sits in my tiki hut  
7 all the time.

8 I think all the neighbors on the other side  
9 of the canal have probably the same feeling,  
10 because they had to look at the eyesore for the  
11 last -- I don't know how many years, until we  
12 actually went in and, you know, improved the  
13 grounds and the property.

14 So that's basically what happened. You  
15 know, to me, it's beautiful. There's nothing  
16 there -- I don't even know why somebody would  
17 complain. Am I allowed to know who made the  
18 anonymous complaint?

19 MS. GONZALEZ: It was anonymous, but you  
20 can speak to Code Enforcement.

21 MR. SEYFORTH: Okay, well, and here's the  
22 only thing that, you know -- I mean, because I  
23 don't understand why somebody would complain,  
24 because all I did was improve the property. I  
25 mean, granted, I did violate the setback, not

1 knowing that I did, because, you know, the  
2 contractor that put it in, and they were  
3 probably just -- they're putting in a tiki hut.

4 Also, when I did it, I looked at, you know,  
5 the pool setback, where it stood with the  
6 decking and the pool, and I said, "Well, you  
7 know, we've kept it way inside of that," and so  
8 I assumed that, you know, I wasn't moving it  
9 too far back, because it was way inside the  
10 pool and the deck on the back side, and I mean,  
11 there's like still 17 to 18 feet to the canal.  
12 It's open, just like -- you know, so the tiki  
13 hut is inside even where the pool sits, and  
14 then on the side with my neighbor, again,  
15 that's where probably I moved it maybe a little  
16 closer than I should have, but again, he's not  
17 complaining.

18 So that's the situation as far as building  
19 the tiki hut.

20 Now, I guess the other thing I wanted to  
21 address is, you know, the financial hardship to  
22 have to change that. If this had happened, you  
23 know, a year and a half ago, the truth is, it  
24 wouldn't have made a bit of difference to me,  
25 not one bit. I could have just said, "Okay,

1 fine, you know, whatever I've got to do, I've  
2 got to tear it down." But sometimes things in  
3 life happen, and for me, it happened in  
4 bunches. About a year and a half ago, my  
5 daughter was diagnosed with Stage IV cancer, so  
6 now I spend a lot of time with her. My  
7 business suffered because of that, so I've lost  
8 my business in the process, so the idea of, you  
9 know, even being able to stay there started to  
10 be in jeopardy. Then, during the course of  
11 this past year, my father was diagnosed with  
12 cancer and he passed away, so that's going  
13 along as we're still dealing with the situation  
14 with my daughter's Stage IV, and then in the  
15 last three months, my brother, who is my third  
16 and last family member, was diagnosed with  
17 cancer.

18 So it's been kind of a, you know, pretty  
19 tough year for me, and so the financial  
20 hardship is definitely there, because right now  
21 I'm in the position where, you know, all the  
22 things I thought I was going to be doing,  
23 moving here and retiring and living the good  
24 life, it's -- you know, it's just life. It  
25 happens. I'm a big boy and I'll deal with it,

1 but the reality is, I have to sell it. I have  
2 to sell the home. I have to sell my cars. I  
3 have to basically, you know, take care of my  
4 family, so it is a financial hardship. And  
5 again, in closing, all I can say is, I thought  
6 I did something that improved the property and  
7 definitely, you know, the aesthetics of the  
8 home, and I think it improved the value of my  
9 home and the homes around it. So that's it.

10 CHAIRMAN OTERO: Thank you. I know I speak  
11 on behalf of the Board; I'm sorry about your  
12 personal misfortune.

13 MR. SEYFORTH: Thank you. I appreciate  
14 that.

15 CHAIRMAN OTERO: And I wish you the best.  
16 Is the house for sale now?

17 MR. SEYFORTH: Not yet. I actually had to  
18 lease it a year ago, because again, the  
19 financial requirements, and plus I had to spend  
20 time with my daughter, but we're putting it on  
21 the market, you know, this next year.

22 MS. FUHRMAN: So you're not living there  
23 now?

24 MR. SEYFORTH: No. I had no choice, you  
25 know. No, it was my dream home, but it became

1 not so much a dream home right now. It's still  
2 a beautiful home, though. Somebody's going to  
3 be a lucky recipient.

4 CHAIRMAN OTERO: It looks it.

5 MR. SEYFORTH: Yeah, it's --

6 CHAIRMAN OTERO: It looks it.

7 Questions?

8 MR. PEREZ: Yes, I have a question. This  
9 was -- You had an architect design this tiki  
10 hut?

11 MR. SEYFORTH: Yes, it --

12 MR. PEREZ: Because your plan has Davidson  
13 Design Studio. I can see where you would not  
14 be made aware of that, because the Miccosukee  
15 doesn't need a permit, that it still has to  
16 comply with the Coral Gables Building Code,  
17 which is more -- could be more demanding, more  
18 strenuous than the Florida Building Code. But  
19 what I don't understand is how the architect  
20 that designed this for you was not aware of the  
21 Coral Gables requirements, setback and so  
22 forth.

23 MR. SEYFORTH: That's a fair question, and  
24 the answer is very simple. He did it after the  
25 fact. I had the tiki hut built, and then when

1 I found out I had this issue, you know, one of  
2 the things that I was required to do was to get  
3 an architect come in, which obviously I had to  
4 pay for, to come in and say, "Okay, this is  
5 what happened, this is what we did." So it was  
6 after the fact.

7 MR. PEREZ: Thank you.

8 CHAIRMAN OTERO: Because no permit was  
9 requested.

10 MR. SEYFORTH: Right, right.

11 CHAIRMAN OTERO: How about for the deck?  
12 Was a permit requested for the deck?

13 MR. SEYFORTH: No. No, because I was told  
14 by, you know, the contractor, which is the  
15 Miccosukees, they said that no, as long as you  
16 build the deck and the tiki hut --

17 CHAIRMAN OTERO: You're exempt.

18 MR. SEYFORTH: Yeah. Yeah, so I thought,  
19 well, this is good, you know, I'm happy, and  
20 this is -- you know.

21 MR. HIDALGO: I have a question for the  
22 City. Was there a permit for the water  
23 feature?

24 MS. GONZALEZ: The reflecting pond?

25 MR. HIDALGO: The pond.

1 MS. GONZALEZ: No.

2 MR. HIDALGO: No?

3 CHAIRMAN OTERO: Thank you.

4 MR. SEYFORTH: Okay, thank you.

5 CHAIRMAN OTERO: Is there anyone in the  
6 audience that wishes to speak on behalf of or  
7 against the proposal? Let the record show no  
8 one here in the audience came forward to speak.

9 As far as I can see, the public hearing is  
10 now closed, and now the Board can discuss, make  
11 motions, and feel free to address more  
12 questions to the City or the applicant.

13 MR. SOTELO: Was the complaint made during  
14 the construction process or after the fact? Do  
15 we know when the complaint was made in relation  
16 to the actual construction of the hut?

17 MS. GONZALEZ: It was in December of --  
18 November 27th, the complaint was received, of  
19 2012. I don't know, maybe Mr. Seyforth -- I  
20 believe it was built, once the inspector went  
21 out there.

22 MR. SEYFORTH: Should I stand up?

23 MR. SOTELO: No, no, it's okay.

24 MR. SEYFORTH: The only thing I can --

25 MR. OTELO: I'm just trying to see if the



1 complaint happened while it was being  
2 constructed and somebody who had been annoyed  
3 that that --

4 MR. SEYFORTH: No, I believe it was after  
5 it was constructed.

6 MR. SOTELO: Okay.

7 MR. SEYFORTH: I believe it was after it  
8 was constructed when it happened, and, you  
9 know, I was trying to wonder why, because  
10 again, I know the neighbors around me love it,  
11 so what -- and the only thing that I can think  
12 might possibly have happened -- and again, I'm  
13 just guessing, is that I sit on the association  
14 for the -- you know, the Board there, that is  
15 representing --

16 MS. GONZALEZ: Would you please come up and  
17 speak?

18 MR. SEYFORTH: I sit on the association of  
19 a group that is representing those that are  
20 sitting on the canal that do not have ocean  
21 access. Obviously, there's about 80 homes  
22 there that -- you know, this has been something  
23 that has been going on for years and years, you  
24 know, those homeowners trying to get ocean  
25 access, and obviously, you know, there's a lot

1 of homeowners that don't want that to happen,  
2 the ones that have ocean access. Not all of  
3 them. Some of them could care less, but there  
4 is a small group that really do not want to see  
5 these homes get ocean access, and, you know, is  
6 that a possibility? I don't know. I mean,  
7 that's the only thing I can think of, because  
8 there was no other reason from anybody else.

9 CHAIRMAN OTERO: There could be a lot of  
10 reasons. One reason could be, by way of  
11 example, is that someone may have applied for a  
12 permit in the past --

13 MR. SOTELO: Right.

14 MR. SEYFORTH: Yeah.

15 CHAIRMAN OTERO: -- for a similar hut, and  
16 been denied.

17 MR. SEYFORTH: Yes, sir, it's possible,  
18 very possible.

19 CHAIRMAN OTERO: Which is the one I'm  
20 betting on.

21 MR. SOTELO: Uh-huh.

22 CHAIRMAN OTERO: Put that aside. Then my  
23 next question to Staff is, Liz, there's a  
24 comment on the report that says, "Similar  
25 variance requests relating to chickee hut

1       roofing have been presented before and the  
2       Board of Adjustment has generally granted these  
3       variances." This has to do with the first one.  
4       This has to do with the construction.

5               MS. GONZALEZ: That is correct.

6               CHAIRMAN OTERO: If you don't need to  
7       comply with the Code, why would a variance even  
8       be requested on the first item?

9               MS. GONZALEZ: For the material of the  
10      roof. The palmetto palm is not an identified  
11      material in the Zoning Code as a roof covering  
12      material.

13              CHAIRMAN OTERO: So you would still need a  
14      variance, even though you are in conformity --

15              MS. GONZALEZ: For the chickee hut.

16              CHAIRMAN OTERO: -- with the Code which  
17      exempts the Indians?

18              MS. GONZALEZ: It was generally thought  
19      that because of the exceptional standard and  
20      construction for the chickee hut and the fact  
21      that it is a common and typical feature in  
22      South Florida, the variances were usually  
23      granted, generally granted, for the chickee  
24      huts.

25              CHAIRMAN OTERO: For the material?

1 MS. GONZALEZ: For the material, the  
2 palmetto palm thatched roof.

3 CHAIRMAN OTERO: Were there any that you  
4 recall that may have been denied?

5 MS. GONZALEZ: I did a search and there  
6 were very few that I found. I found two that  
7 were approved. However, the only difference is  
8 that those were allowed in the rear waterway  
9 setback because they were considered a  
10 combination of gazebo and trellis, and  
11 trellises were allowed in the rear waterway  
12 setback before.

13 CHAIRMAN OTERO: Do you know --

14 MS. GONZALEZ: Trellises -- I'm sorry,  
15 trellises are not allowed now in the rear  
16 waterway setback.

17 CHAIRMAN OTERO: Shifting to 2 and 3, which  
18 have to do with setbacks --

19 MS. GONZALEZ: That is correct.

20 CHAIRMAN OTERO: -- we have examples where  
21 the criteria for the variances have not been  
22 met, yet the Board of Adjustment has granted  
23 variances?

24 MS. GONZALEZ: If the criteria -- I don't  
25 know with a hundred percent certainty.

1           CHAIRMAN OTERO: It's clear, on 2 and 3,  
2           the criteria in the literal terms have not been  
3           met, but that doesn't mean the Board doesn't  
4           have some discretion to grant variances, as we  
5           have done in the past. Do you know of any that  
6           have been granted or denied in similar facts?

7           MS. GONZALEZ: For a chickee hut?

8           CHAIRMAN OTERO: Yes.

9           MR. GALVEZ: Or any structure.

10          MS. GONZALEZ: For any structure?

11          MR. GALVEZ: You're talking about setbacks?

12          CHAIRMAN OTERO: We're talking setbacks.

13          MR. GALVEZ: We're not talking chickee hut.

14          CHAIRMAN OTERO: Yeah, now we're beyond  
15          chickee hut, because we passed that test on the  
16          first one.

17          MS. GONZALEZ: I could not answer with a  
18          hundred percent certainty, without having the  
19          facts in front of me and all of the details.  
20          There's so many cases, and I can recall a  
21          second floor addition that was approved to  
22          encroach into the setback, but every case has  
23          its own set of circumstances and is judged on  
24          its own set of circumstances. There could have  
25          been something unique, a unique feature with

1 the lot. I don't know at this moment. I'm not  
2 going to answer that, because I don't know with  
3 a hundred percent certainty.

4 MR. GALVEZ: I think what he's trying to  
5 get at is, we want to avoid creating a  
6 precedent --

7 MR. SOTELO: Right.

8 MR. GALVEZ: -- that would allow a splurge  
9 of these sort of structures to be sprouting.

10 MS. GONZALEZ: I can recall, as I said, a  
11 second floor addition, and I can also recall an  
12 addition that was allowed to encroach into the  
13 rear waterway setback, but the lot was unusual.  
14 It was irregular in shape. So there were other  
15 circumstances to consider, when considering  
16 that design in itself.

17 MR. GALVEZ: Is it the easterly neighbor  
18 not objecting to his encroachment? Because I  
19 think that's the one that it really affects the  
20 property, being that the hut is technically  
21 even with the pool and closer than the pool  
22 deck.

23 MS. GONZALEZ: I have a letter of no  
24 objection from that neighbor to the east.

25 MR. GALVEZ: Which is that?

1 MS. GONZALEZ: This neighbor.

2 MR. GALVEZ: Does that establish a reason  
3 to allow the variance?

4 MS. GONZALEZ: It does not -- That's not  
5 one of the standards that is outlined in your  
6 packet, Number 1 through 8.

7 MR. GALVEZ: The side setbacks are there  
8 for the protection of the neighbors.

9 MS. GONZALEZ: It is there for protection  
10 of the neighbor. It is there for numerous  
11 reasons.

12 MR. SEYFORTH: May I add something about  
13 that?

14 CHAIRMAN OTERO: Sure. Step up, please.

15 MR. SEYFORTH: Yeah. The neighbor, he's  
16 been a homeowner there for like 35 plus years,  
17 and obviously, after it was built, I did talk  
18 to him, and particularly when I found out about  
19 the setback, and I told him what happened, and  
20 I said -- you know, I just asked him, "Is there  
21 an issue with you?" Because I think, you know,  
22 again, as you said, it's not the back, because  
23 it's actually inside the pool, anyway, by a  
24 long ways. I said, "So it really isn't  
25 affecting you, because we're talking about this

1 much of a setback I'm using, the 10 feet," and  
2 he said, "No, not at all." He said, "I have no  
3 problem. I love it." He said, "I love it,  
4 Mark." He said, "I'll give you -- " That's  
5 when he said, "Let me write you a letter,  
6 saying that I have no problems with it. I've  
7 been a homeowner for 35 years, and I love the  
8 tiki hut."

9 CHAIRMAN OTERO: The tests we are faced  
10 with -- Let me make a couple of comments.

11 MR. SEYFORTH: Okay.

12 CHAIRMAN OTERO: This Board has tried,  
13 since I've been on it, very hard to accommodate  
14 neighbors, because we're all neighbors.

15 MR. SEYFORTH: Right. I understand.

16 CHAIRMAN OTERO: But the criteria is not  
17 personal as to either you or your neighbor,  
18 because tomorrow's neighbor can change.

19 MR. SEYFORTH: Uh-huh.

20 CHAIRMAN OTERO: And it has to do with the  
21 property. And if you're five feet away, let's  
22 say, from your neighbor, and he thought it was  
23 fine, his buyer could then do the same thing  
24 five feet from your house, which you may not  
25 think is fine, or your buyer. I mean, that's



1 the problem and the difficulty that we have.

2 MR. SEYFORTH: I understand.

3 CHAIRMAN OTERO: Not every case is a  
4 slam-dunk.

5 MR. SEYFORTH: No, I understand.

6 CHAIRMAN OTERO: Okay.

7 Any further discussion, need for  
8 information?

9 The only information I'm missing is  
10 actually precedent, whether this has happened  
11 in the past in similar situations, pro or con,  
12 and that's important to me, because that --  
13 Otherwise, my co Board members here can opine,  
14 make a motion.

15 MR. GALVEZ: Well, my last comment is, you  
16 know, the hardship that we're dealing with is a  
17 financial hardship, and, you know, I  
18 acknowledge the hardship, but essentially, for  
19 this home to be sold, that violation would have  
20 to be cleared in order to deliver clear title,  
21 and for that violation to be cleared, the tiki  
22 hut would have to be removed. That's the tough  
23 part for the owner right now. But again, if  
24 he's selling the home, the sale could be  
25 contingent upon the removal of the hut and he

1 can essentially look to the buyer to pay the  
2 monies, to pay for the removal.

3 That's really where I was having the  
4 struggle with this whole situation, but it just  
5 hit me now that that's really the biggest  
6 hurdle, is disposing of the property without a  
7 violation on it.

8 CHAIRMAN OTERO: To follow up, is there a  
9 recurring fine on this property or is there a  
10 violation that's been recorded?

11 MS. GONZALEZ: There's not a fine at this  
12 moment. That is being stayed until a decision  
13 is rendered today.

14 CHAIRMAN OTERO: Thank you.

15 MR. THOMSON: Yeah, I just have two  
16 comments, and that is the old axiom that  
17 ignorance of the law is no excuse, and I've  
18 looked at the plans and the drawings and I  
19 think if this had come up to the Board for a  
20 zoning request of a variance, I would not  
21 approve it with the side setback and the size  
22 of it, so I just don't think this is an idea  
23 that I could go along with.

24 MR. SEYFORTH: May I ask --

25 CHAIRMAN OTERO: Just one more question.

1 It says on the first page, "The plans have  
2 received final approval from the Board of  
3 Architects."

4 MS. GONZALEZ: That is correct.

5 CHAIRMAN OTERO: What is the import of  
6 that? What is the relevance?

7 MS. GONZALEZ: The Board of Architects is  
8 made up of members of the community, architects  
9 who approve and review the design in  
10 conjunction with the residence and the  
11 neighboring properties.

12 MR. SEYFORTH: May I say one thing?

13 CHAIRMAN OTERO: Yes, please.

14 MR. SEYFORTH: I guess I'm not quite  
15 understanding. I thought there had been  
16 precedents of situations with setbacks in Coral  
17 Gables that have been approved.

18 MS. GONZALEZ: Yes, that's correct.

19 MR. SEYFORTH: I mean, there has been.

20 CHAIRMAN OTERO: Let me try to explain  
21 again, and luckily, we have counsel here that  
22 can further educate me.

23 To grant a variance, you need to meet seven  
24 standards.

25 MR. SEYFORTH: Right, uh-huh.

1           CHAIRMAN OTERO: We have granted variances  
2           when those have been met. Irregular lots is  
3           the most common one. Inability to build a dock  
4           because of sea issues with DERM is another one,  
5           to extend it.

6           With respect to the two zoning variance  
7           requests, those have not been met. That's why  
8           we are struggling with this.

9           MR. SEYFORTH: Yeah.

10          CHAIRMAN OTERO: It's a little different.

11          MR. SEYFORTH: Okay.

12          CHAIRMAN OTERO: It doesn't fit the seven  
13          criteria. That's the problem we're having.

14          MR. SEYFORTH: Okay.

15          MS. THORNTON RICHARD: Just to be clear,  
16          this Board does obviously have the discretion  
17          to issue a variance on the setback issues, but  
18          again, as the Chair spoke to you, they must  
19          consider the eight factors --

20          MR. SEYFORTH: Right, and I --

21          MS. THORNTON RICHARD: -- and determine if  
22          each individual applicant and each individual  
23          property meets those factors, and that's within  
24          this discretion.

25          MR. SEYFORTH: Okay. Obviously, I'm just

1 asking you to please consider it because of  
2 financial hardship and the fact that I think,  
3 you know, the setback, even though it's there,  
4 is not affecting anybody, our neighbors or  
5 anybody else. Maybe in the future, maybe. I  
6 don't see that.

7 MR. SOTELO: I think the biggest concern is  
8 how this may set precedent for future cases  
9 like this --

10 MR. SEYFORTH: Yeah, right.

11 MR. SOTELO: -- where they may not have a  
12 neighbor that's --

13 MR. SEYFORTH: Yeah, but then --

14 MR. SOTELO: I probably wouldn't mind it,  
15 but my buyer may.

16 MR. SEYFORTH: Could that be part of the  
17 precedent, though, that you have to have  
18 approval from anybody that it affects? I mean,  
19 see, it affects him, and nobody else, as long  
20 as -- I mean, maybe if you're worrying about a  
21 precedent being set, I mean, wouldn't it also  
22 be one of the considerations, that if someone  
23 says, "No, if it's violating my setback, well,  
24 you can't do that," then, you know, that's  
25 different, but if the neighbor is saying, "I

1 don't mind that two feet, you know, go ahead,"  
2 I mean, it's not a problem for me.

3 CHAIRMAN OTERO: We have, in the past, set  
4 conditions to approval. I'm not sure we have  
5 ever set conditions to approval related to the  
6 mood of a neighbor. That's the problem.

7 What I'd like to do, because I think this  
8 is important to the Board, is spend no more  
9 than seven -- whatever time we need, so the  
10 Board can really just briefly go over each of  
11 the seven conditions.

12 MR. SEYFORTH: Okay.

13 CHAIRMAN OTERO: And just to see if there's  
14 a systemic approach we can follow, that we can  
15 exercise some discretion in reading the answer  
16 to each of these in a different way, perhaps,  
17 than has been read.

18 So, if the Board would look at Staff  
19 Observation Items 2 and 3, the first criteria  
20 is that special conditions and circumstances  
21 exist which are peculiar to the land, structure  
22 or building which are not applicable to other  
23 lands, structures or buildings in the same  
24 zoning district. Staff opines that the  
25 property site is typical, with no unusual or

1 exceptional circumstances.

2 Does anyone disagree with that or want to  
3 comment on that first conclusion?

4 MR. SOTELO: No.

5 CHAIRMAN OTERO: None.

6 The second criteria is that special  
7 conditions and circumstances do not result from  
8 the actions of the applicant. Staff opines  
9 that it does not meet that standard and that  
10 the installation of the hut in the setback area  
11 was a result of the construction being  
12 completed without approval and permit from the  
13 City.

14 Is there any discussion or any disagreement  
15 with that conclusion?

16 None?

17 Third, that the granting of the variance  
18 will not confer on the applicant any special  
19 privilege that is denied by these regulations  
20 to other lands, buildings or structures in the  
21 same zoning district. Staff opines that it  
22 does not meet the standard.

23 Any opinions, discussion? If anybody on  
24 the Board sees a gray area that we can flip  
25 this, please speak up.

1           No objection.

2           Four, that the literal interpretation of  
3           the provisions of these regulations would  
4           deprive the applicant of rights commonly  
5           enjoyed by other properties in the same zoning  
6           district under the terms of these regulations  
7           and would work unnecessary and undue hardship  
8           on the applicant.

9           Let me make a footnote, and I can be  
10          corrected by counsel, I don't think financial  
11          situations constitutes hardship. Am I correct?

12          MS. THORNTON RICHARD: Well, it's for this  
13          Board to determine what you are going to  
14          consider a hardship.

15          CHAIRMAN OTERO: Okay.

16          MS. THORNTON RICHARD: It's hard for me to  
17          say that it can never be a hardship, especially  
18          in circumstances, you know --

19          CHAIRMAN OTERO: So this Board will --  
20          Let's submit that this Board can consider  
21          financial hardship to an extent, in the  
22          discretion of the Board. Is there any  
23          objection to the conclusion that it does not  
24          meet the standard exception -- the standard  
25          required under Item 4?



1           No objection?

2           MR. SOTELO: I have one statement about  
3           that.

4           CHAIRMAN OTERO: Yes, sir.

5           MR. SOTELO: And I think that we need to  
6           look at this as if this was being submitted  
7           preconstruction. We're looking at this after  
8           the fact, right now, and it's almost we're  
9           backtracking, so the hardship could be  
10          considered before. Now we're considering the  
11          hardship of what it's going to cost to remove,  
12          and I think that's important to note, because  
13          we've got to think that this should have been  
14          done beforehand and we would have not had this  
15          hardship that we're now seeing, then. I think  
16          we need to consider that, so --

17          CHAIRMAN OTERO: Do you feel that 4 has  
18          been met?

19          MR. SOTELO: I think, given the  
20          circumstances of what we're calling hardship,  
21          it has been met, but I want us all to kind of  
22          see where I'm going, is that we would normally  
23          look at that as the person is submitting for a  
24          permit, not post, because we're in essence  
25          trying to use the conclusion of hardship as

1        what it's going to cost to remove this because  
2        it was done without permit.

3            CHAIRMAN OTERO: Any further comments  
4        or -- Number 5, the variance granted is the  
5        minimum variance that will make possible the  
6        reasonable use of the land, building or  
7        structure. Staff opines, it does not meet the  
8        standard required for authorization of  
9        variance, that the distances encroaching into  
10       the rear are not minimal, but significant. A  
11       smaller version or different location should  
12       have been considered.

13           What distances are we talking about,  
14       exactly?

15           MR. SEYFORTH: About two and a half feet on  
16       the side and about four on the back.

17           MS. GONZALEZ: The rear setback is located  
18       at fifteen feet, six inches, versus twenty  
19       feet, as required by the Zoning Code. And the  
20       side setback is seven feet, four inches, versus  
21       ten feet, as required by the Zoning Code.

22           CHAIRMAN OTERO: Any question or comment on  
23       5, on the issue of numbers, whether three feet,  
24       four feet constitutes sufficient --

25           MR. GALVEZ: Well, as a percentage of the

1 setback, it's substantial. It's 25 percent of  
2 the setback on the side. So I think you look  
3 at it like that, how much of a percentage of  
4 the actual setback are we encroaching into.

5 CHAIRMAN OTERO: I would request of the  
6 Board members just to keep all this in your  
7 heads as we present a motion, when I'm done  
8 with this exercise.

9 Number 6, that granting the variance will  
10 not change the use to one that is not permitted  
11 in the zoning district or different from other  
12 land in the same district. Staff opines it  
13 does not -- it does meet the standard required.  
14 Number 6, Staff opines it does meet the  
15 standard, that it will not change the use to  
16 one that is not permitted in the zoning  
17 district.

18 Number 7, that the granting of the variance  
19 will be in harmony with the general intent and  
20 purpose of these regulations and that such  
21 variance will not be injurious to the area  
22 involved or otherwise detrimental to the public  
23 welfare. Staff opines it does not meet the  
24 standard required for authorization of the  
25 variance, that granting the variance to allow

1 the encroachment of the chickee hut and the  
2 wood deck flooring will not be in harmony with  
3 the general intent of the Zoning Code. The  
4 Zoning Code requires distances which maintain  
5 separation from neighboring properties and  
6 maintain similar distances from the waterway  
7 for sight preservation of the waterway view.  
8 Some are subjective, but are there any  
9 comments, discussions on that item?

10 The last one is that the granting of the  
11 variance is appropriate for the continued  
12 preservation of a historic landmark. That's  
13 not relevant in this case.

14 So we have seven standards that must be  
15 met. Some are subjective, some are objective.  
16 Any further discussion or can we have a motion  
17 as set forth in your packet? And whoever makes  
18 the motion, please review your packet, that you  
19 have language on each of the items. And I  
20 would entertain a motion on each of the items  
21 separately. The first item would be that  
22 regarding, basically, the Building Code.

23 MS. FUHRMAN: On Item Number 1?

24 CHAIRMAN OTERO: Item Number 1, which is  
25 the one that is recommended by Staff to be

1 approved.

2 MS. FUHRMAN: I move that the Board of  
3 Adjustment grant Application BA-14-07-3633, a  
4 request by the owners as applicants for a  
5 variance for the existing residence at 1501  
6 Bella Vista Avenue, to allow the chickee hut to  
7 remain as built with palmetto palm thatched  
8 roof. The motion is based upon the testimony  
9 presented, along with the application submitted  
10 and the Staff Report, which constitute  
11 competent, substantial evidence. The Board  
12 hereby makes findings of fact that each of the  
13 standards in Section 3-806 of the Zoning Code  
14 has been met.

15 MR. GALVEZ: I second.

16 CHAIRMAN OTERO: Item 1, motion to grant  
17 has been seconded. Any discussion?

18 Take the roll on that first item, please.

19 MS. GONZALEZ: Mr. Perez?

20 MR. PEREZ: Yes.

21 MS. GONZALEZ: Mr. Sotelo?

22 MR. SOTELO: Yes.

23 MS. GONZALEZ: Mr. Hidalgo?

24 MR. HIDALGO: Yes.

25 MS. GONZALEZ: Mr. Galvez?

1 MR. GALVEZ: Yes.

2 MS. GONZALEZ: Ms. Fuhrman?

3 MS. FUHRMAN: Yes.

4 MS. GONZALEZ: Mr. Thomson?

5 MR. THOMSON: Yes.

6 MS. GONZALEZ: Mr. Otero?

7 CHAIRMAN OTERO: Yes.

8 On Item Number 2 -- Actually, 2 and 3  
9 relate to the zoning. We'll entertain a motion  
10 on Item Number 2, granting or denying the  
11 variance.

12 MS. FUHRMAN: I move that the Board of  
13 Adjustment deny Application BA-14-07-3633, a  
14 request by the owners as applicants for a  
15 variance for the existing residence at 1501  
16 Bella Vista Avenue, to allow the chickee hut to  
17 maintain a rear waterway setback of fifteen  
18 feet, six inches. The motion is based upon the  
19 testimony presented, along with the application  
20 submitted and the Staff Report, which  
21 constitute competent, substantial evidence.  
22 The Board hereby makes findings of fact that  
23 each of the standards in Section 3-806 of the  
24 Zoning Code has not been met.

25 MR. THOMSON: Second.

1           CHAIRMAN OTERO: There's a motion that's  
2           been seconded. I would like to make a motion  
3           to amend that motion, just to state that --  
4           just to clarify that Standard 6 has been met,  
5           but the remaining two -- Would you like to  
6           restate the motion --

7           MS. FUHRMAN: Yes.

8           CHAIRMAN OTERO: -- with what we're  
9           supposed to get in?

10          MS. FUHRMAN: Okay.

11          CHAIRMAN OTERO: Would that be proper, to  
12          restate the motion?

13          MS. THORNTON RICHARD: Yeah, you can  
14          restate it. It's okay.

15          CHAIRMAN OTERO: Thank you.

16          MS. FUHRMAN: It was Number 6 that was  
17          correct.

18          MS. GONZALEZ: Number 6 and Number 8 were  
19          met, out of the eight standards.

20          MS. FUHRMAN: I move that the Board of  
21          Adjustment deny Application BA-14-07-3633, a  
22          request by the owners as applicants for a  
23          variance for the existing residence at 1501  
24          Bella Vista, to allow the chickee hut to  
25          maintain a rear waterway setback of fifteen

1 feet, six inches. The motion is based upon the  
2 testimony presented, along with the application  
3 submitted and the Staff Report, which  
4 constitute competent, substantial evidence.  
5 Standard Number 6 and Standard Number 8 were  
6 met. The Board hereby makes findings of fact  
7 that six of the eight standards in Section  
8 3-806 of the Zoning Code have not been met.

9 MR. HIDALGO: A clarification on the  
10 motion. Is that for Item 2 and 3, or only for  
11 Item 2?

12 MS. FUHRMAN: Only for Item 2.

13 CHAIRMAN OTERO: Is there a second?

14 MR. HIDALGO: There was a second.

15 CHAIRMAN OTERO: There was a second?

16 MS. GONZALEZ: Mr. Thomson seconded.

17 MR. THOMSON: Second, yeah.

18 CHAIRMAN OTERO: Any discussion?

19 The vote, please?

20 MS. GONZALEZ: Ms. Fuhrman?

21 CHAIRMAN OTERO: Just to clarify, this is a  
22 motion to deny, so a yes vote means deny.

23 MS. FUHRMAN: Yes.

24 MS. GONZALEZ: Mr. Perez?

25 MR. PEREZ: No.



1 MS. GONZALEZ: Mr. Galvez?

2 MR. GALVEZ: Yes.

3 MS. GONZALEZ: Mr. Sotelo?

4 MR. SOTELO: Yes.

5 MS. GONZALEZ: Mr. Thomson.

6 MR. THOMSON: Yes.

7 MS. GONZALEZ: Mr. Hidalgo?

8 MR. HIDALGO: Yes.

9 MS. GONZALEZ: Mr. Otero?

10 CHAIRMAN OTERO: Yes.

11 Item Number 3.

12 MR. THOMSON: I'll make the motion.

13 CHAIRMAN OTERO: Yes.

14 MR. THOMSON: Okay. I move that the Board  
15 of Adjustment deny Item 3 of Application  
16 BA-14-07-3633, a request by owners as  
17 applicants for a variance for the existing  
18 residence at 1501 Bella Vista Avenue, to allow  
19 the chickee hut to remain as built with a  
20 palmetto palm thatched roof. The motion is  
21 based upon the testimony presented, along with  
22 the application submitted and Staff Report,  
23 which constitute competent, substantial  
24 evidence. The Board hereby makes findings of  
25 fact that with the exception of Item 6 and 7,

1 each of the standards in Section 3-806 of the  
2 Zoning Code has not been met. 6 and 7 were  
3 met.

4 MR. SOTELO: I second.

5 CHAIRMAN OTERO: Just to correct, I think  
6 it's 6 and 8, Mr. Thomson.

7 MR. THOMSON: 6 and 8, pardon me.

8 CHAIRMAN OTERO: An oral scrivener's  
9 correction. It's been seconded as such?

10 MR. SOTELO: (Nods head).

11 CHAIRMAN OTERO: Discussion?  
12 Vote?

13 MS. GONZALEZ: Mr. Thomson?

14 MR. THOMSON: Yes.

15 MS. GONZALEZ: Mr. Galvez?

16 MR. GALVEZ: Yes.

17 MS. GONZALEZ: Mr. Perez?

18 MR. PEREZ: No.

19 MS. GONZALEZ: Mr. Hidalgo?

20 MR. HIDALGO: Yes.

21 MS. GONZALEZ: Ms. Fuhrman?

22 MS. FUHRMAN: Yes.

23 MS. GONZALEZ: Mr. Sotelo?

24 MR. SOTELO: Yes.

25 MS. GONZALEZ: Mr. Otero?

1 CHAIRMAN OTERO: Yes.

2 The motion on Item Number 1 was to approve  
3 and passed, and just to summarize, the motion  
4 to deny also passed on Items 2 and 3.

5 As was stated earlier, you may appeal this  
6 to the City Commission. Liz will give you  
7 deadlines and summarize how soon you have to do  
8 this. Thank you for your time. I'm sorry  
9 about the result.

10 MR. GALVEZ: Just to be clear, you've been  
11 approved to build a thatched roof, just not  
12 within the setbacks. It could be rebuilt at a  
13 smaller size for the property.

14 MR. SEYFORTH: Okay. Thank you.

15 MS. GONZALEZ: Mr. Otero, we need to have  
16 the minutes approved from the meeting of  
17 October the 6th, that was sent to you via  
18 e-mail, to all the Board members.

19 MR. HIDALGO: So moved.

20 MR. GALVEZ: I move that we approve.

21 MR. HIDALGO: Second.

22 CHAIRMAN OTERO: All those in favor?

23 (Thereupon, all members voted aye.)

24 CHAIRMAN OTERO: Opposed?

25 Unanimous.

1 MS. GONZALEZ: Mr. Otero, we need to  
2 entertain the election of a Chairperson and  
3 also the election of a Vice-Chairperson.

4 MR. HIDALGO: I'm going to move to have  
5 Mr. Otero as Chairman again. He's done a  
6 wonderful job.

7 MR. GALVEZ: Second.

8 MR. SOTELLO: Congratulations.

9 CHAIRMAN OTERO: We need a Vice-Chair,  
10 also.

11 MS. GONZALEZ: Let's take a vote first on  
12 the first one.

13 CHAIRMAN OTERO: Okay, take a vote.

14 MS. GONZALEZ: There was a motion to elect  
15 Mr. Otero as Chairperson of the Board by  
16 Mr. Hidalgo and seconded by Mr. Galvez.

17 Mr. Galvez?

18 MR. GALVEZ: Yes.

19 MS. GONZALEZ: Mr. Perez?

20 MR. PEREZ: Yes.

21 MS. GONZALEZ: Ms. Fuhrman?

22 MS. FUHRMAN: Yes.

23 MS. GONZALEZ: Mr. Hidalgo?

24 MR. HIDALGO: Yes.

25 MS. GONZALEZ: Mr. Sotelo?

1 MR. SOTELO: Yes.

2 MS. GONZALEZ: Mr. Thomson?

3 MR. THOMSON: Yes.

4 MS. GONZALEZ: Mr. Otero?

5 CHAIRMAN OTERO: Yes.

6 MS. GONZALEZ: We need a motion --

7 CHAIRMAN OTERO: I'd like to move to

8 appoint Oscar Hidalgo as Vice-Chair

9 MR. SOTELO: Second.

10 MS. GONZALEZ: I'm sorry, who seconded?

11 There's a motion to elect Mr. Hidalgo as

12 Vice-Chair by Mr. Otero and seconded by

13 Mr. Sotelo.

14 Mr. Galvez?

15 MR. GALVEZ: Yes.

16 MS. GONZALEZ: Mr. Thomson?

17 MR. THOMSON: Yes.

18 MS. GONZALEZ: Ms. Fuhrman?

19 MS. FUHRMAN: Yes.

20 MS. GONZALEZ: Mr. Sotelo?

21 MR. SOTELO: Yes.

22 MS. GONZALEZ: Mr. Hidalgo?

23 MR. HIDALGO: Yes.

24 MS. GONZALEZ: Mr. Perez?

25 MR. PEREZ: Yes.

1 MS. GONZALEZ: Mr. Otero?

2 CHAIRMAN OTERO: Yes.

3 MS. GONZALEZ: Thank you.

4 Next, I e-mailed you, and in your packet,  
5 you have the dates, the tentative dates, for  
6 next year, 2015. As you know, we can always  
7 work with that a little bit. Have you all had  
8 a chance to look at that? Are there any  
9 objections, concerns, suggestions?

10 MR. GALVEZ: I'm also concerned with  
11 vacation. You know, the January 5th date, is  
12 there any way to move it just to the next week?  
13 I know that I'll be coming in, the weekend  
14 before, from being away.

15 MS. GONZALEZ: I think --

16 CHAIRMAN OTERO: Do we generally have a lot  
17 of applicants at that time?

18 MS. GONZALEZ: I don't know, because the  
19 deadline is a month and a half, but at this  
20 moment, I don't have anything scheduled for  
21 January. That doesn't mean that that's not  
22 necessarily the case.

23 MS. FUHRMAN: Could we decide that when you  
24 know?

25 MS. GONZALEZ: I could send out an e-mail

1 and -- We can leave it as is, and then I can  
2 work with that. The problem with scheduling it  
3 the week after is that that leaves us a small  
4 amount of time to get the next cases on board.  
5 So we could postpone that one if we don't  
6 have at least four members, a quorum.

7 CHAIRMAN OTERO: If we don't have a quorum,  
8 we can just push it back to February.

9 MR. PEREZ: I know I don't think I'll be  
10 here. I'll be in Dallas with my grandchildren  
11 for the New Year, so I don't know that I can  
12 make that meeting.

13 MS. GONZALEZ: Okay.

14 MR. GALVEZ: Yeah, and that's usually the  
15 case, also, with the August 3rd meeting,  
16 because there's some complications.

17 MS. GONZALEZ: I'm sorry, the August 3rd  
18 meeting?

19 MR. GALVEZ: Yeah.

20 MS. GONZALEZ: What we could do is have  
21 this as the tentative dates, and I can work  
22 with this. As you all know, I communicate with  
23 you all, and depending upon if I don't have  
24 enough members or if I have two members  
25 missing, I try to work with the applicant, as

1 well, and ask them to defer till the next  
2 month. It's all workable. If I can push it  
3 one week after, we could do that, too.

4 CHAIRMAN OTERO: Is that okay?

5 MR. GALVEZ: That's all I was asking, is if  
6 those two dates could be moved a week later,  
7 that's all.

8 MS. GONZALEZ: Okay.

9 MR. GALVEZ: That would not impose a  
10 possible --

11 MS. GONZALEZ: I'm going to see if the  
12 Commission Chambers is available, and then I'm  
13 just going to move it.

14 CHAIRMAN OTERO: For the 12th.

15 MS. GONZALEZ: I'll move it for January the  
16 12th, and then I will move it to August the  
17 10th.

18 MR. GALVEZ: I think that would just, at  
19 least -- you know, obviously, you still have  
20 situations that come up, but initially, I would  
21 say I have no problems with any of the dates if  
22 that would happen.

23 MS. GONZALEZ: Okay. I will send you a new  
24 outline with the new dates, and our next  
25 meeting is scheduled for December the 1st, and



1 as you know, I will notify you if it will be  
2 held or not. Thank you.

3 CHAIRMAN OTERO: If no further business --  
4 (Thereupon, the meeting was adjourned at  
5 9:00 a.m.)  
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C E R T I F I C A T E

STATE OF FLORIDA:

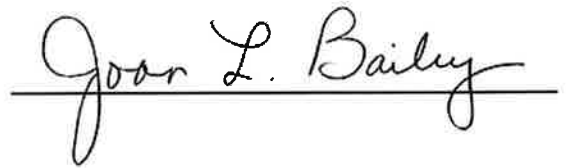
SS.

COUNTY OF MIAMI-DADE:

I, JOAN L. BAILEY, Registered Diplomate  
Reporter, Florida Professional Reporter, and a Notary  
Public 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.

I further certify that Mark A. Seyforth was  
duly sworn by me.

DATED this 4th day of November, 2014.

A handwritten signature in cursive script that reads "Joan L. Bailey". The signature is written in dark ink and is positioned above a horizontal line.

JOAN L. BAILEY, RDR, FPR

Notary Commission Number EE 083192.  
My Notary Commission expires 6/14/15.