

1 of native coral rock, in fences or otherwise.  
2 Homes are built in the classical contemporary  
3 style, and there are homes built in other  
4 classical styles, and it continues. But it  
5 underscores the importance of the landscape in  
6 that neighborhood, perhaps even more so than  
7 other neighborhoods in Coral Gables. So the  
8 setback is to improve the public right-of-way,  
9 set the house back, allow more green area, more  
10 planting, more landscape on the public  
11 right-of-way.

12 CHAIRMAN LUKACS: Are there any other  
13 questions from the Board?

14 DR. BRIGGLE: I have a question. You  
15 mentioned that the footprint of the current  
16 project is less than the footprint of the '06  
17 project.

18 MR. HERNANDEZ: The house proper, yes.

19 DR. BRIGGLE: The house proper?

20 MR. HERNANDEZ: Yes.

21 DR. BRIGGLE: Does the house proper include  
22 or not include the porches itself?

23 MR. HERNANDEZ: No. Let me show you the  
24 chart again, please.

25 DR. BRIGGLE: Well, on your diagram, I

1       assume the footprint is the shaded area, I  
2       should say, from the survey; is that correct?  
3       That's what you --

4               MR. HERNANDEZ: The shaded area is the  
5       house proper.

6               DR. BRIGGLE: Right.

7               MR. HERNANDEZ: That's smaller.

8               DR. BRIGGLE: And that's the footprint  
9       you're speaking of; that actual thing is  
10      smaller?

11              MR. HERNANDEZ: Is smaller.

12              DR. BRIGGLE: But, in fact, the porch area  
13      has enlarged?

14              MR. HERNANDEZ: Yes.

15              DR. BRIGGLE: And, according to our Zoning  
16      Code, the footprint and the porches are to be  
17      included as one square footage number?

18              MR. HERNANDEZ: In the ground area  
19      coverage.

20              DR. BRIGGLE: The ground area coverage.

21              MR. HERNANDEZ: That's correct. That is  
22      correct. That is the point before you.

23              MR. BARTEL: And just to clarify, Dr.  
24      Briggle, it's not the porch, per se, enlarged.  
25      It's not like they got --

1 DR. BRIGGLE: Right.

2 MR. BARTEL: What we simply did is, we  
3 wrapped it around. Otherwise, from an  
4 architectural perspective, it would be a porch  
5 to nowhere.

6 MR. HERNANDEZ: A dangling porch.

7 MR. BARTEL: It would make no sense, from  
8 an aesthetic perspective and would not be in  
9 harmony with the character of the neighborhood,  
10 or let alone the architectural style that  
11 George Merrick so loved that he built his own  
12 home.

13 MR. HERNANDEZ: In both cases, you see the  
14 difference is not material, from the '06  
15 application, but the intent was that. The  
16 intent was to make the footprint of the house  
17 proper smaller.

18 MS. DE LAS CUEVAS-DIAZ: I have one  
19 question.

20 MR. BARTEL: Yes.

21 MS. DE LAS CUEVAS-DIAZ: When you purchased  
22 the house -- because you keep on talking about  
23 how this is unique, but when you purchased it,  
24 were you aware that the lot coverage area was  
25 going to be smaller, because of the location of

1 where you purchased your house?

2 MR. BARTEL: Certainly we recognized the  
3 fact that the Zoning Code itself permits  
4 individuals to come in and seek redress or  
5 exceptions, and so the regulations itself, that  
6 actually permit this Board to exist, permit me  
7 to come in to seek exception when we recognize  
8 it's in the interest of the City.

9 So, in answer to your question, yes, but  
10 let me qualify that by saying that the  
11 regulations allow for exceptions when you meet  
12 the criteria for seeking variances, and in this  
13 case, the very fact that what we're seeking to  
14 do, the rear lot area coverage, was -- was and  
15 is just and in keeping with the intent of the  
16 City, as this Board has already decided, and  
17 the lot area coverage was the same way, so --

18 MR. ARTIGUES: May I see the copy of the  
19 drawing that you're --

20 MR. HERNANDEZ: Sure.

21 MR. ARTIGUES: Do you have, other than the  
22 rendering, any of the previously approved  
23 variances?

24 MR. BARTEL: Yes.

25 MR. HERNANDEZ: Yes.

1 MR. ARTIGUES: How do they differ? You  
2 said that you reduced the house proper by how  
3 many square feet?

4 MR. HERNANDEZ: So that that ground area of  
5 house proper, without porch, in '06, was 5,975  
6 square feet, and in 2010, it's 5,699 square  
7 feet, so --

8 MR. ARTIGUES: Approximately a little under  
9 300 square feet?

10 MR. HERNANDEZ: A little under 300 square  
11 feet, the house proper. The footprint, not the  
12 FAR. There's not one -- first and second  
13 story, but the footprint was reduced about 300  
14 square feet, a little under 300 square feet.

15 MR. ARTIGUES: And the open terraces have  
16 increased by about -- not quite 600?

17 MR. HERNANDEZ: Not quite 600, that is  
18 correct. They were 2,870 square feet, and they  
19 are 3,451 square feet.

20 MR. ARTIGUES: Do you have the drawings?  
21 May I see them?

22 MR. HERNANDEZ: Sure.

23 MR. BARTEL: The drawings for what?

24 MR. HERNANDEZ: The drawings that show the  
25 difference.

1 MR. BARTEL: Sure.

2 MR. ARTIGUES: Do you believe it has been  
3 done in a way where the existing terraces have  
4 increased the width, or are there  
5 additional --

6 MR. HERNANDEZ: No, they are wrapped around  
7 the western side of the house. I'll show you.

8 MR. ARTIGUES: So the solid mass of the  
9 home, in actuality, has probably been reduced.

10 MR. HERNANDEZ: It has been reduced, the  
11 volume, the sense of volume.

12 MR. BARTEL: And that's a critical feature.  
13 The very -- the massing of the house, the FAR,  
14 is less than it was four years ago, less than  
15 it was.

16 MR. HERNANDEZ: So this is the current  
17 proposal on the lot, and Mr. Bartel is pointing  
18 to -- This area here is a deck. It is not  
19 roofed. So the roofed area of the porch simply  
20 goes around the body of the house proper. I  
21 don't know if you can see this.

22 MR. MORA: Yes.

23 MR. BARTEL: Oh, I didn't mean to block  
24 you.

25 MR. HERNANDEZ: It goes around the body of

1 the house proper. That's today.

2 Would you mind holding that for a second,  
3 please?

4 And then this was in '06. Can everybody  
5 see that if I stand like this?

6 MR. BARTEL: This --

7 MR. HERNANDEZ: These -- and you can see,  
8 the house is both fatter and wider. The house  
9 proper was both fatter, or rather deeper, front  
10 to back, and wider, side to side. And portions  
11 of it, like that terrace, actually used to  
12 stick out even further. So the house has been  
13 reduced and the porch has been pulled around  
14 the house, features that I submit eliminate --  
15 to your question in terms of the, how the house  
16 has been reduced and what the effect of the  
17 massing is, the whole house has been pulled in.  
18 Features that used to protrude out of the house  
19 and be -- like the two-story turret, be things  
20 that would stick out of the volume of the  
21 house, have been eliminated. The house has  
22 been pulled in, and the porch now wraps the  
23 house in its entirety. The shape of the porch  
24 causes a reduction of the visual appearance of  
25 the mass of the house, as well.

1 I know we're spending a lot of time  
2 speaking about the porches, and I think that's  
3 appropriate, because we're trying to make this  
4 distinction in terms of the ground area  
5 coverage, or we're trying to nuance, let's say,  
6 the distinction above and beyond the letter of  
7 the law, and again, since we're talking about a  
8 new day, you know, the City is moving towards  
9 this issue of greening the Gables, and there's  
10 a committee that's been appointed and they are  
11 beginning their work, and one of the things --  
12 again, it's not -- we're talking about a new  
13 day, it's not an issue before you today, but  
14 we're talking about a new day. Porches are a  
15 very low carbon footprint, in living spaces in  
16 this climate. They are historically and  
17 texturally a feature of our historic  
18 architecture, and so the thing that we are in  
19 here, analyzing and looking at, that's a part  
20 of this application, is exactly a feature that  
21 I think, as we continue to judge and evaluate  
22 our City, we're starting to understand once  
23 again, they're highly valuable, prized  
24 features, that are very appropriate for the  
25 architecture and the climate that we live in,



1 and they are green; they're a very low carbon  
2 footprint.

3 MR. ARTIGUES: They're very transparent, as  
4 well, in regards to this lot.

5 MR. BARTEL: And what you see, Members of  
6 the Board, is what is -- There is nothing  
7 before you that we are not unbelievably proud  
8 about. I've spent hundreds of thousands of  
9 dollars in reliance upon what was approved four  
10 years ago, and quite frankly, given the fact  
11 that what we're designing today was less  
12 intense than what it was four years ago, and  
13 knowing -- the first thing I did when we  
14 started redesigning was to say to ourselves,  
15 we're going to do something that's smaller, and  
16 we are extremely proud about that. We've moved  
17 forward, and because we were so worried about  
18 potentially having our vested rights expire  
19 after you potentially approve this, we've  
20 already moved forward and are near completion  
21 of our construction drawings, so that we didn't  
22 have the problem we had four years ago, which  
23 was that we had to go in and ask for extensions  
24 upon extensions.

25 So I -- I'll be very frank. In addition to

1 all the legal arguments we've made, every  
2 single equitable argument before you today,  
3 every single one, favors the applicant. And  
4 I've not practiced law in eight years, but I  
5 can tell you unequivocally, I've spent hundreds  
6 of thousands of dollars in pursuit of this. To  
7 deny this would be an affront, not only to this  
8 body and to myself, but to the neighborhood, to  
9 consistency, and it would essentially render  
10 this body saying to itself, "We're going to  
11 rule against what we did," notwithstanding that  
12 it's a new day, but the day is brighter today  
13 for the applicant than it was four years ago,  
14 and we'd be hard pressed to find a rationale to  
15 deny that, for both legal and equitable  
16 reasons, under principles and doctrines of  
17 fundamental fairness that we all recognize with  
18 critical issues, and every precedential value  
19 that we all recognize in any quasi-judicial  
20 body.

21 So, thank you, Mr. Chairman, and we're  
22 happy to answer any questions you have.

23 CHAIRMAN LUKACS: You're welcome. But let  
24 me just quickly say something for the record,  
25 and I can well appreciate your wanting to place

1 as much emphasis as have you this morning upon  
2 a prior decision of this Board, but out of  
3 respect for the Board, we do have other members  
4 of the Board present today.

5 MR. BARTEL: Yes, I understand.

6 CHAIRMAN LUKACS: -- who were not part of  
7 the decision-making process four years ago.

8 MR. BARTEL: Yes, sir.

9 CHAIRMAN LUKACS: They are not to be --  
10 They're not to feel compelled in any way to  
11 adhere to what was the decision, some four  
12 years ago, based upon a presentation that was  
13 made four years ago, based upon the Staff  
14 recommendation that was made four years ago.  
15 They're independent thinkers. We do serve as a  
16 collective body, but they are entitled to their  
17 own independent thinking, their own independent  
18 decision-making, based upon the evidence  
19 presented and the merits of your application.

20 So, with due respect, I don't see the  
21 precedential value in a decision made four  
22 years ago, when today we're looking at a new  
23 application. We're not looking at a legal  
24 entitlement based upon a vested right, but an  
25 expiration of the vested right, and we're

1 relying and today are charged with the  
2 responsibility of taking your evidence and  
3 making a decision, in weighing that evidence,  
4 in all fairness to yourself as well as to the  
5 Board.

6 And not having practiced law in eight  
7 years, you do a very fine job in representing  
8 yourself, if I may say so, Mr. Bartel.

9 MR. BARTEL: Thank you, Mr. Lukacs.

10 CHAIRMAN LUKACS: Members of Staff, do you  
11 wish to contribute in any way --

12 MR. MORA: I just have a quick question,  
13 actually for the Staff. They obviously ruled  
14 differently, four years ago, and I know we're  
15 in a new day, but I'd like to hear from Staff,  
16 because I wasn't there back then, as to why  
17 there was an approval, more specific, because  
18 we've heard one side, and we haven't heard the  
19 rebuttal side, as to, why was it approved in  
20 '06, and why is it being denied today?

21 So if I could get some more details on  
22 that, I think that would be great.

23 MS. SALAZAR-BLANCO: Good morning,  
24 Mr. Chairman, Members of the Board. Martha  
25 Salazar-Blanco, for the record, Zoning

1 Official.

2 In answering your question, in -- the  
3 recommendation four years ago was on a previous  
4 administration. That previous administration  
5 felt that exceeding almost 3,000 square feet of  
6 lot coverage was a minimal variance. The  
7 present administration does not feel that that  
8 amount of square footage is a minimal square  
9 footage.

10 There is a Zoning Code that Staff and  
11 everyone has to conform to and comply with,  
12 which is 15, at this -- as far as this case and  
13 this property, it's required to have no more  
14 than 15 percent, and that's including just the  
15 net area.

16 I do want to add that even if it was still  
17 not -- if it was still part of the Miami-Dade  
18 County, even though that the County would  
19 include part of the right-of-way as part of the  
20 15 percent, even at that time, they would not  
21 even comply with County standards. So, the  
22 present Staff really felt that this is -- this  
23 was not a hardship, even though that the  
24 previous administration felt it was, and that's  
25 the difference of the 2006 recommendation and

1 today's recommendation.

2 MR. MORA: Where was the hardship in 2006?

3 MS. SALAZAR-BLANCO: The architectural  
4 style was basically the main reason why it  
5 was -- it was a hardship. Staff did not feel  
6 that the architectural style was a hardship.  
7 The house could be redesigned, the house could  
8 comply with the Zoning Code, and we did not  
9 take under consideration the style of  
10 architecture.

11 MR. MORA: Okay.

12 MR. BARTEL: Mr. Chairman, may I ask Ms.  
13 Salazar-Blanco a quick question?

14 CHAIRMAN LUKACS: Of course, you can.

15 MR. BARTEL: Ms. Salazar-Blanco, if I could  
16 just ask you to take a look at the Commission  
17 recap for 2006. Do you recognize that  
18 document, by any chance?

19 MS. SALAZAR-BLANCO: Yes. That's the recap  
20 from the October 3rd, 2006 Board of Adjustment.

21 MR. BARTEL: And under Staff, could you  
22 indicate who the Staff persons were at the  
23 time?

24 MS. SALAZAR-BLANCO: It says myself and  
25 that was -- and that's it.

1 MR. BARTEL: Thank you very much.

2 MS. SALAZAR-BLANCO: However, I do want to  
3 add that you all have the copy of the  
4 transcripts, and it was not put as the  
5 Assistant Building & Zoning Director at that  
6 time, which was the person that recommended the  
7 variances in 2006.

8 CHAIRMAN LUKACS: Okay, for the record, who  
9 was the individual who recommended on behalf of  
10 Staff?

11 MS. SALAZAR-BLANCO: That was Dennis Smith.

12 CHAIRMAN LUKACS: Okay. Your predecessor?

13 MS. SALAZAR-BLANCO: Yes.

14 CHAIRMAN LUKACS: All right. Anything  
15 further?

16 MR. MORA: No.

17 MR. ARTIGUES: A couple of -- just a quick  
18 question. What were the setback encroachments  
19 in 2006?

20 MR. HERNANDEZ: There were none.

21 MR. ARTIGUES: There were none?

22 MR. HERNANDEZ: There were none. There was  
23 no -- The house was completely within the  
24 standards of the Code in terms of height,  
25 setback and floor area ratio, and that remains

1 true today.

2 MR. ARTIGUES: Were the requirements the  
3 same?

4 MR. HERNANDEZ: The requirements were  
5 the -- well, the floor area ratio requirements  
6 became the same once we adopted, under the 2006  
7 provision of the Code -- once we adopted the  
8 ruling from the Board of Architects, that this  
9 was a design of exceptional merit.

10 MR. BARTEL: That it was irrelevant,  
11 anyway.

12 MR. HERNANDEZ: It was irrelevant, in other  
13 words, and that was FAR. So, you said, were  
14 the requirements the same; they were the same  
15 for everything, once the design was judged of  
16 exceptional merit, but the two issues that are  
17 here before you, ground area coverage and rear  
18 lot coverage, are the same, as Mr. Bartel said.  
19 The standards of the Code have not changed one  
20 word.

21 MR. ARTIGUES: So -- but on this diagram  
22 here, it shows the required setbacks and the  
23 proposed setbacks, and -- Oh, I'm sorry, here  
24 we go. I see it clearly. Pardon me.

25 Thank you.



1 CHAIRMAN LUKACS: Anything further,  
2 Mr. Bartel, Mr. Hernandez, members of Staff?

3 Okay.

4 MR. BARTEL: We do want to commend Staff  
5 for being very professional through the  
6 process, being very timely to our requests for  
7 information, notwithstanding the fact that we  
8 respectfully disagree. Certainly, again, it's  
9 the wisdom of this Board that we're relying  
10 upon, and the full faith and credit we have in  
11 this Board to render the proper decision. So,  
12 thank you, Mr. Chairman.

13 CHAIRMAN LUKACS: Thank you, sir.

14 Members of the Board, is there a motion?

15 MR. MORA: Well, I'd like a quick question.  
16 From members that were here back then, that  
17 could enlighten us a little bit as to what you  
18 saw, as to why you proceeded for approval on --  
19 I mean, I know it's four years ago, and you  
20 might not be able to, but based on what you've  
21 read --

22 CHAIRMAN LUKACS: I don't recall what I had  
23 for breakfast yesterday. Trying to recall what  
24 occurred four years ago -- I think the record  
25 actually speaks for itself, but the reality is

1       that Boards change, administrations change,  
2       recommendations change, and we can't have a  
3       current administration hamstrung by a prior  
4       recommendation of a prior administration. We  
5       can't have current Boards hamstrung by prior  
6       decisions of this Board, for all the reasons  
7       that I expressed previously, and that is that  
8       we do have new members of this Board who are  
9       entitled to a full presentation of the evidence  
10      and the opportunity to evaluate the merits of  
11      the case on a case-by-case basis.

12             That holds true with respect to the  
13      existing Board members, as well. The fact that  
14      we had a presentation that was made, way back  
15      when, upon which we had rendered a decision, if  
16      we were dealing with the exact same set of  
17      facts, you might have an argument that's more  
18      compelling. I don't think we're dealing with  
19      that here. I don't accept the precedential  
20      value of a prior decision four years ago, given  
21      the fact that we also have an expiration of  
22      vested rights that occurred, as well. Again,  
23      it's nice to know that that's what we did in  
24      the past, but for purposes of today, from my  
25      perspective, it does not carry any precedential

1 value.

2 What does carry value is, of course,  
3 looking at the criteria under the Code, and  
4 when I look at that -- and you addressed those,  
5 and this is important. We're spending a lot of  
6 time because of the importance of this  
7 application to you, Mr. Bartel, and your  
8 family, and Mr. Hernandez, to your opinions, as  
9 well as the hard work by our Staff, but I'm  
10 having difficulty identifying the special  
11 conditions and circumstances that exist that  
12 are peculiar to your land and not peculiar  
13 to -- or I should say, are different from any  
14 other conditions and circumstances within your  
15 unique subdivision. I'm having difficulty in  
16 identifying that there are not special  
17 conditions or circumstances which don't result  
18 from your actions, because the actions of the  
19 applicant and the owner are the ones in the  
20 design of a particular structure for this use.  
21 I'm having difficulty in identifying what would  
22 be a minimum variance, in order to allow for  
23 the beneficial use of this property to its  
24 fullest. It's a beautiful property, it's a  
25 beautiful design, but the fact of the matter

1 remains, it appears that there are alternatives  
2 available, design alternatives, that would  
3 allow for the use of this property, the  
4 beneficial use of this property, the full  
5 enjoyment of the property itself, without  
6 regard to what you really want on this  
7 property, and that's where I'm having  
8 difficulty. It's not that we're dealing with a  
9 property that is unique in its configuration,  
10 as we have seen in the past, one that sets you  
11 separate and apart and unique from other  
12 properties who are similarly situated.

13 So, if you could help me with that, those  
14 are the explanations I need.

15 MR. HERNANDEZ: I mean, I will try to  
16 answer the question. I'm sure Mr. Bartel will  
17 add to my answer. Some of it will just be  
18 underscoring what has been said before, but  
19 maybe it was said so quickly that it merits  
20 restating.

21 One thing that hasn't been said before is  
22 that there have been variances granted on  
23 similar properties in the area. I, for  
24 example, was the architect for one of them, and  
25 in that case, it wasn't even a matter of

1 porches. It simply was a matter of the fact  
2 that the applicant had done -- They were two  
3 able-bodied persons. This is across the  
4 street. They did not want a two-story house,  
5 so the one-story portion of that house exceeds  
6 the 15 percent, and that is a precedent that is  
7 in the neighborhood.

8 There are others that I have not been  
9 involved with, that have been granted by this  
10 Board, I don't know if under the current  
11 membership or the previous membership, but  
12 there is a precedent in the neighborhood to  
13 look at this and grant other variances,  
14 particularly because of the kind of -- I'm not  
15 going to say onerous, but the difficulty of  
16 that 15 percent footprint. It is more than  
17 half less than the rest of our City, and in  
18 that case, as I said, it wasn't for porches,  
19 which, as Mr. Artigues has well recognized, are  
20 transparent, and I have said carbon neutral or  
21 carbon friendly aspects of the design, which  
22 are appropriate, contextually, to the history  
23 and architecture and lineage of this City.

24 So there is a precedent that way, that  
25 there are other houses that have been granted

1       these variances. This case, I mean, this  
2       house, four years ago, was granted that  
3       variance, but let's put that aside; for the  
4       moment, let's look at others.

5               MR. BARTEL: Purpose and intent, again,  
6       recognizing that it was the -- This  
7       neighborhood would have a 35 percent lot area  
8       coverage, but for the homeowner association  
9       seeking to have it reduced, that very same  
10      homeowner association that has the best sense  
11      of what belongs in this neighborhood, the best  
12      sense of what is compatible, the best sense of  
13      what would not be at variance with rights that  
14      have been afforded to other homes in this area,  
15      and they've asked your unqualified support of  
16      this application, and this body so saw that, as  
17      well.

18             CHAIRMAN LUKACS: Members of Board, any  
19      further discussion?

20             MR. HERNANDEZ: If I may just add one other  
21      thing, speaking to the setting request and to  
22      the question that Ms. De Blij -- How do you  
23      pronounce your name?

24             CHAIRMAN LUKACS: Doctor.

25             DR. DE BLIJ: De Blij.

1           MR. HERNANDEZ: De Blij. We set the house  
2           back an additional eight feet, and you asked  
3           why, and I answered it, because of the  
4           landscape and the important of landscape in  
5           this area. It's a kind of pastoral, almost  
6           quasi-rural, let us say, but certainly a  
7           pastoral area of this City, and that's the kind  
8           of character that's trying to be preserved.  
9           Should we, you know, give that up? Well, if we  
10          did, we would be working against what the  
11          neighbors wanted in the first place, which is  
12          to have this be as green as possible.

13                When you're on this street, Hammock Lakes  
14          Drive, you really see just a lane and a very  
15          thick layering of landscape. So the  
16          application is trying, really, to serve the  
17          spirit of the neighborhood, the will of the  
18          neighborhood and the character of the  
19          neighborhood, and in that sense, it's  
20          materially the same as what happened in '06.

21                But it was a very good question, because it  
22          goes to the core of the issue, and I thank you  
23          for that.

24                DR. DE BLIJ: Well, if you moved it up to  
25          50 feet, how would that affect your request for

1 a variance on the rear area?

2 MR. HERNANDEZ: There would be less -- It  
3 would practically be okay, not quite, but  
4 practically be okay with rear area coverage.

5 MR. BARTEL: And again, recognizing that  
6 the request this year is 107 feet less --

7 MR. HERNANDEZ: Less.

8 MR. BARTEL: -- than what was approved four  
9 years ago. So the same rationale, the same  
10 body -- and I understand Mr. Lukacs, we have  
11 three members -- I'm by no means seeking to  
12 have any sway upon the new members, but what I  
13 am asking is for there to be consistency of the  
14 body in looking at the same law and the same  
15 application involved and the same material  
16 facts, recognizing that there was a great deal  
17 of reliance on those facts and that law.

18 CHAIRMAN LUKACS: I understand.

19 MR. HERNANDEZ: Thank you.

20 CHAIRMAN LUKACS: No, thank you.

21 Martha, part of the criteria is to  
22 determine whether or not the variance will be  
23 injurious to the area. Mr. Bartel and  
24 Mr. Hernandez have looked at the issue that  
25 there have been other variances granted within



1 the subdivision, which in itself serves as a  
2 precedent, if you will. Can you address that  
3 issue?

4 MS. SALAZAR-BLANCO: Well, I would like to  
5 clarify that there have been several variances  
6 as far as the end properties coming before this  
7 Board, that have exceeded the 15 percent;  
8 however, those cases have exceeded the 15  
9 percent because of the way it had been counted,  
10 being that the Zoning Code counts it under a  
11 net gross -- a net area, and the County counts  
12 the right-of-way. So, when these cases came  
13 before the Board of Adjustment, they at no time  
14 exceeded the 15 percent including the  
15 right-of-way.

16 CHAIRMAN LUKACS: Okay.

17 MR. HERNANDEZ: I think, if the merits of  
18 this case rest on that testimony, we probably  
19 should do some research, because the case I  
20 remember, and I can't state absolutely, because  
21 I'm working from memory, and I, too, can't  
22 remember what I had for breakfast yesterday,  
23 Mr. Chair. That case, I think, may have  
24 exceeded the 15 percent.

25 CHAIRMAN LUKACS: Members of the Board?

1 MR. BELLO: Mr. Chairman, I'm ready to make  
2 a motion to approve the application. I think  
3 Mr. Bartel has complied with the spirit, and I  
4 think more important than us sitting here is,  
5 he has neighbors telling us that they're in  
6 favor of his variance. I think that's far more  
7 important to us, or any policy that the City  
8 has changed due to Staff changes. So I move  
9 for approval.

10 CHAIRMAN LUKACS: Is there a second?

11 MR. ARTIGUES: I'll second it.

12 CHAIRMAN LUKACS: There's been a motion and  
13 a second. Any further discussion?

14 DR. BRIGGLE: Mr. Chair, we -- It's  
15 probably a moot point, but did we hear -- Is  
16 anybody opposed to this application?

17 CHAIRMAN LUKACS: Actually, it's not a moot  
18 point. That's a very good question. But given  
19 the passage of time, it's something that I  
20 sorely overlooked.

21 Is there anybody here today that wishes to  
22 speak in opposition to today's application?

23 There are none.

24 Members of Staff, any further comment?

25 Madam Secretary, please call the roll.

1 MS. GONZALEZ: Mr. Bello?  
2 MR. BELLO: Yes.  
3 MS. GONZALEZ: Dr. Briggles?  
4 DR. BRIGGLES: No.  
5 MS. GONZALEZ: Mr. Mora?  
6 MR. MORA: No.  
7 MS. GONZALEZ: Dr. De Blij?  
8 DR. DE BLIJ: No.  
9 MS. GONZALEZ: Mrs. de la Cuevas-Diaz?  
10 MS. DE LA CUEVAS-DIAZ: No.  
11 MS. GONZALEZ: Mr. Artigues?  
12 MR. ARTIGUES: Yes.  
13 MS. GONZALEZ: Mr. Lukacs?  
14 CHAIRMAN LUKACS: No.  
15 MR. BARTEL: Thank you. Thank you for your  
16 consideration.  
17 CHAIRMAN LUKACS: Thank you very much,  
18 Mr. Hernandez.  
19 MR. HERNANDEZ: Thank you.  
20 MS. GONZALEZ: Mr. Chairman, do we need a  
21 motion to deny?  
22 CHAIRMAN LUKACS: Excuse me?  
23 MS. GONZALEZ: Do we need a motion to deny?  
24 CHAIRMAN LUKACS: No.  
25 MS. GONZALEZ: No?

1 CHAIRMAN LUKACS: No. The application  
2 failed.

3 \* \* \* \* \*

25