

City of Coral Gables City Commission Meeting
Agenda Item E-1
June 2, 2026
Public Safety Building, CMR
2151 Salzedo Street, Coral Gables, FL

City Commission

Mayor Vince Lago
Vice Mayor Rhonda Anderson
Commissioner Melissa Castro
Commissioner Ariel Fernandez
Commissioner Richard D. Lara

City Staff

City Attorney, Cristina Suárez
City Manager, Peter Iglesias
City Clerk, Billy Urquia
Deputy City Attorney, Stephanie Throckmorton

Public Speaker(s)

Jeff Rodriguez, Representing the applicant
Virginia Ferrer
Danielle Lowenthal-Frontella
Albert Sanchez

Agenda Item E-1

An Appeal to the Coral Gables City Commission from the decision of the Board of Adjustment on May 4, 2026 approving an application for a variance to allow a mechanical equipment for a swimming pool to have a side setback of one foot and nine inches (1'-9") and rear setback of two feet and seven inches (2'-7"), where a minimum of five feet (5') is required on both side and rear, per Section 3-308.D and Section 5-606.4 of the Coral Gables Zoning Code for the property located at 722 Aledo Avenue, legally described as lot 8 & W1/2 of lot 9, Block 134 Coral Gables Country Club Sec 6.

Mayor Lago: Moving on to item E-1.

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Agenda Item E-1 – Appeal from the decision of the Board of Adjustment on May 4, 2026

Approving an application for a variance to allow mechanical equipment for a swimming pool

City Attorney Suarez: Thank you, Mayor. E-1 is an appeal to the Coral Gable City Commission from the decision of the Board of Adjustment on May 4th, 2026 approving an application for a variance to allow mechanical equipment for swimming pool to have a side setback of one foot and nine inches and rear setback of two feet and seven inches where a minimum of five feet is required on both side and rear per Section 3-308.D and Section 5-606.4 of the Coral Gable Zoning Code for the property located at 722 Aledo Avenue, legally described as lot * and W1/2 of lot 9, Block 134, Coral Gable's Country Club, Section 6. Mayor, this is a quasi-judicial item pursuant to Section 14-208.6 of the City Zoning Code. This appeal is based on the record of the hearing before the Board of Adjustment and shall not be a de novo hearing. What that means is that no new or additional testimony shall be taken and it's an appeal based only on the record. The Commission's role is to determine whether the code was followed and whether competent substantial evidence supported the decision of the Board of Adjustment. After the City Commission's review, the City Commission has four options as provided in the Zoning Code, the City Commission can affirm the decision of the Board of Adjustment, which in this case, approve the variance with conditions, the City Commission can affirm the decision of the Board of Adjustment with conditions, the City Commission can override the decision of the Board of Adjustment, which in this case means the variance would be denied, or the City Commission can remand for further proceedings to the Board of Adjustment. The Mayor as Chair of the Commission, with me as parliamentarian, has issued a procedural order that was provided in advance to the Commission and the parties. Pursuant to that procedural order, the appellant property owner will be allowed 15 minutes for presentation, which shall be limited to the record before the Board of Adjustment. Next, the Deputy City Attorney and Development Services staff will be allowed 15 minutes for their presentation, which will also be limited to the record below. Next, there'll be time for questions by members of the City Commission to staff or the parties, and then public comment will be allowed, but will be limited to two minutes per speaker. Because the review of this appeal is not de novo, public comments shall not be considered testimony in this case. And then finally, there'll be time for additional questions and discussion by members of the City Commission. Because this is a quasi-judicial item, I do need to ask if there have been any ex parte communications that any member of the Commission needs to disclose.

Mayor Lago: Anyone?

Vice Mayor Anderson: I've heard comments from various people.

Commissioner Lara: Through the Mayor.

Mayor Lago: Yes, sir.

Commissioner Lara: Yeah. I've heard comments from several residents, and I've actually heard from Brian Goldmeier, who spoke to me expressing his displeasure following the approval of the application.

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Mayor Lago: Anyone else?

Commissioner Fernandez: I've heard from residents as well. I have not spoken to Mr. Goldmeier about this.

Mayor Lago: I've heard from residents, and I've heard from Mr. Goldmeier also.

City Attorney Suarez: Mr. Mayor, I would ask that those of you who've had ex-parte communications, if you could just, please affirm that you would be able to remain free from bias and be fair and impartial in your consideration of this matter.

Mayor Lago: Commission?

Commissioner Lara: Yes.

Vice Mayor Anderson: Yes.

Mayor Lago: Yes.

Commissioner Fernandez: Yes.

Mayor Lago: Thank you. Now moving on to staff, or to excuse me, the-

City Attorney Suarez: The appellate.

Mayor Lago: The appellate, I apologize, excuse me. Good morning, sir.

Jeff Rodriguez (Attorney for Applicant, 722 Aledo Ave.): Good morning, Mr. Mayor, Vice Mayor, Commissioners. My name is Jeff Rodriguez, and I represent the applicants. At the outset, I want to thank the Board of Adjustment, the city staff, and the Commission for your time and consideration in this matter. I wanted to also apologize. There seems to have been some inaccuracies with the transcript company that prepared the transcript that was provided to you. They said, one person said something where it was actually another. Going back to the matter at hand, it's important to recognize that this is not a case where the board denied the variance. After hearing the evidence, the board determined that the variance should be granted. The issue before the Commission today is whether the conditions imposed by the board are necessary and appropriate. Before discussing the conditions, I'd like to briefly revisit why the request, why the variance was requested and why the board correctly found the variance standards were met. This matter involves a pool equipment variance for pool equipment that had existed at the same location well before my client purchased the property and serves an existing residential swimming pool. The variance does not arise because my client's built a new pool, expanded their pool area, or intensified the use of the property. Rather, it arose because my client voluntarily undertook improvements to their existing pool system and worked with the city to properly permit those improvements. The board recognized that requiring relocation of the equipment would impose a significant hardship while providing little to no corresponding public benefit. The board further determined that the variance was consistent with the character and nature of the neighborhood and

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would not be contrary to public interest. We believe the board was correct in that assessment. However, our concern is with the additional conditions imposed by the board requiring a sound dampening cover and a restrictive covenant on the land. First, this covenant will be difficult to administer and enforce. It requires ongoing determination of sound levels, compliance standards that future owners may struggle to understand and may lead to future disputes. Second, the burden of this covenant would extend far beyond my clients. This property is currently under contract for sale to an elderly purchaser with a special needs child. They've expressed serious concerns regarding their obligation and their ability to maintain the cover indefinitely and their ability to comply with perpetual covenant affecting the property. Third, the condition did not accomplish the board's intended purpose. The neighboring property owners who complained about the equipment were not satisfied by the cover or covenant requirements. In fact, despite those conditions being imposed, they nevertheless filed an intent to appeal the variance. That demonstrates that the conditions did not resolve the dispute as intended and merely created additional burdens for current and future owners. Finally, and most importantly, there has never been a finding that this equipment violates the city noise regulations, constitutes a nuisance, or fails to comply with any objective noise standards. The equipment has existed for years without any citations, code enforcement action, or determination that creates an unreasonable impact on the neighboring properties. This is a standard residential pool equipment; the type found throughout Coral Gables. There's nothing unique or ordinary about it. And there's no evidence that it creates material different from similar residential pool equipment throughout the city. Accordingly, we respectfully request that the Commission affirm the board's determination that the variance should be granted, but to remove the requirements for the sound dampening cover and restricted covenants. Thank you for your time and consideration.

Mayor Lago: Thank you. Madam City Attorney.

Deputy City Attorney Stephanie Throckmorton: Thank you, Mayor, Vice Mayor, members of the Commission, Stephanie Throckmorton, Deputy City Attorney. I sit with the Board of Adjustment and it's my pleasure to be here today to give you a brief summary of the item before you. As the City Attorney explained, I just want to go over the three prongs, the due process, the substantial competent evidence, and the correct application of law. This item was heard twice by the Board of Adjustment on April 13th. After a full discussion, the item was deferred to May 4th in order to allow the property owner to explore alternative options for the placement of the equipment. When the meetings were properly noticed, there was public comment taken and the property owner was allowed to speak. As far as competent substantial evidence, there were numerous presentations by members of the public as well as the applicant's attorney, excuse me. And as the applicant's attorney mentioned, the board considered the eight considerations for a variance in the city's zoning code. Ultimately, the board determined that the approval would be granted conditioned on an agreement with the city that would ensure that a similar acoustical cover that would reduce the sound of 50 percent for the current equipment only would be installed and maintained by any

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future property owners. As mentioned, I believe that those three prongs were satisfied and that the Board of Adjustment properly did their job. And we're here along with Arceli Redilia from the zoning staff to answer any questions if you have any.

Mayor Lago: Thank you very much.

Deputy City Attorney Stephanie Throckmorton: Thank you.

Mayor Lago: Mr. Clerk, do you have any public comment?

City Clerk Urquia: Yes, Mr. Mayor. First speaker...

Mayor Lago: Can we clarify also on the previous public comment? Obviously, I didn't mention it, I should have mentioned it, it's my fault. If you spoke in public comment and you're speaking about the same issue again, you will not be allowed to get one bite of the apple here in the City of Coral Gables. In reference to the previous public comment that was provided by the young lady, she never provided her address. Do we have an address for her?

Commissioner Castro: It's 15 Minorca.

City Clerk Urquia: 15 Minorca Avenue, apartment 1110.

Mayor Lago: She didn't provide it on the record, so.

City Clerk Urquia: No, she didn't.

Mayor Lago: Okay, just want to make sure that, and I never met with her, which I would have met with her if she would have come to see me. Moving on in regard to public comment.

City Clerk Urquia: First speaker, I have this morning, I do not have a name, but from the signature, I believe it to be Virginia Ferrer.

Mayor Lago: Good morning.

Virginia Ferrer: Good morning, commissioners. I respectfully object to the applicant's request.

City Clerk Urquia: Ma'am, do you mind stating your address for the record, please?

Virginia Ferrer: It's 719 Escobar Avenue.

City Clerk Urquia: Thank you.

Virginia Ferrer: I respectfully object to the applicant's request to remove the encaustic enclosure condition that was attached to the variance approval. The variance was granted only after the applicant himself proposed the acoustic enclosure as a means of mitigating the adverse impacts of locating the pool equipment within the required setback. Removing the condition increases the already unfair burden of the neighboring property owners to protect their quiet enjoyment and quality of life. I've lived over 30 years behind 722 Aledo at 719 Escobar Avenue and only recently heard loud pool equipment noise. When I heard the homeowner was applying for a variance, I

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strongly opposed it. I thought I had the right since he violated the five-foot setback rule and wasn't happy with the unsightly, irritatingly noisy equipment so close to my property, which I have a recording of. The next-door neighbor also was disturbed by the noise, so we came up with solutions that would minimize the inconvenience, which included a permanent concrete wall around the pool equipment and an encaustic enclosure around the pool pump. The spa, a waterfall, a saltwater generator, a heater, and a pool park are all situated in the illegal location and a permanent concrete wall would have cut the various motor noises and mitigated the solution. The letter submitted by the homeowner's lawyer prior to the Board of Adjustment meeting only offered four hedges as mitigation. Two minutes before the actual meeting, Mr. Rodriguez rushed to show us a photo of a random acoustic enclosure that claims to reduce, am I done?

Mayor Lago: Just finish it up, take a few moments, finish up.

Virginia Ferrer: That only would address the pool pump. We're not even sure what motor is causing all the noise. That's why we pushed for a concrete wall, and we weren't happy with just an encaustic enclosure. Anyway, we don't think any variance should be granted and that it should go back, that he should be stopped for objecting to the single solution he proposed and then reneged on. I ask the Commission to deny this appeal and send it back to the board to assess whether the mitigation will actually be effective and if not, require additional mitigation.

Mayor Lago: Thank you.

City Clerk Urquia: Danielle Lowenthal-Frontella.

Mayor Lago: Good morning.

Danielle Lowenthal-Frontella: Good morning, everyone. My name is Danielle Frontella, and I've been living for over 15 years on 715 Escobar Avenue. We are here today to ask you to deny this appeal and deny any variance. The variance approved pool equipment that does not comply with the city's required five-foot setback. This is not a small or standard installation. It covers approximately eight feet by a five-foot area. It includes mechanisms for a pool pump, filter, heater, spa equipment, waterfall system and saltwater converter. It is large, visually unattractive and extremely noisy. We're not here to debate whether the five-foot setback rule is appropriate. The rule was established by professionals. We're simply asking that it be enforced. At the Board of Adjustment meeting on May 4th, Ms. Ferrera and I asked for a solution to mitigate the noise like a concrete wall surrounding it. So, a sound proofing cover was suggested by the appellant's attorney and hastily approved by the board without any specifics on it. And now they have the nerve to appeal to the variance with conditions. I have always complied with the city rules and requirements when renovating my home. When this equipment was installed too close to my property and in violation of setback requirements, it raised an important question. Do some residents have to follow the rules while others can ignore them and seek a variance afterwards? Importantly, city staff carefully reviewed the variance request under the code standards and recommended denial.

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This problem started when the appellant submitted a permit for the pool renovation. The engineer's original plans showed the equipment relocated to comply with the setback requirement. According to a letter provided by the applicant's attorney, he chose not to do it, claiming financial hardship and disproportionate scope of the work. The disproportionate scope of the work is difficult to accept. For two years, the whole house went under complete renovation, including substantial pool reconstruction and extensive interior and exterior upgrades. So, there was every opportunity to relocate the equipment. The appellant simply chose not to do so. The claim of financial hardship is also difficult to accept. The appellant purchased the property in 2022 for approximately \$2.2 million, extensively renovated, and is now selling it for \$3.8 million. The listing itself states that no expense was spared, highlighting numerous high-end improvements.

Mayor Lago: Madam, if you'd be so kind, you've gone over a minute. If you would help me out, thank you.

Danielle Lowenthal-Frontella: I'm done almost. After investing heavily in the property, the appellant now argues the compliance with the city code was too costly. I calculated roughly over a half a million dollars in renovations, but he could not afford the relocation of this pool equipment to comply with the city rules. It did not deserve the approval of the variance given hastily by the Board of Adjustment and certainly is not entitled to a variance with no conditions. I'm almost done. He shows total disregard for his neighbors, total disrespect for the city rules, and wants to make a mockery of the Commission members by claiming financial hardship. I trust in all of you in the Commission to do the right thing and make the appellants once and for all relocate the equipment and comply with the city rules like all the other residents.

Mayor Lago: Ma'am, you've gone over two minutes. Thank you. Mr. Clerk.

City Clerk Urquia: Albert Sanchez.

Mayor Lago: Good morning, sir.

Mr. Sanchez: Morning, Mayor. Morning, Vice Mayor, Commissioners. Nice to see you all. My name's Albert Sanchez. I live at 619 Camilo Avenue, where I've lived for the past 25 years. I'd like to focus on an issue that impacts every Coral Gables resident, and that is our city zoning code. I'm quite certain that the great majority of our residents have at some point during their time in Coral Gables requested a permit. Living in a historically designated home, I'm quite accustomed to jumping through numerous hoops in order to have a permit approved. And yes, at times, the requirements seem excessively onerous. Yet I adhere to the zoning code because they are the backbone of our city. It is what keeps our city indeed beautiful. In many ways, I view our zoning code as the DNA of our city. As a resident, I also adhere to the code because there is an implicit contract with my neighbors that they too are adhering to the code, and they have an implicit contract with their neighbors, and so on and so forth. And if someone doesn't adhere to the implicit contract, we have the city to call out the violation. Which brings me to the case before us today. A

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permit was issued with a very clear requirement that the pool equipment be placed with a five-foot setback in both directions. And the applicant is admitting that he did not adhere to the approved permit. So rather than doing the right thing from the onset, he is seeking a retroactive variance and justifying it by claiming economic hardship. However, as this Commission is well aware, economic hardship is not a condition for a variance. The onus of adhering to an approved permit is always on us, the individual homeowner. In its well-laid out report, the Planning and Zoning Department evaluated eight conditions. Based on their evaluation, city staff are objective experts, recommended denial of any variance. Therefore, I respectfully ask the Commission to deny any type of variance, even one with conditions. Doing so will uphold city staff's recommendation of denial. Doing so supports the implicit contract that every neighbor in Coral Gables has with each other. Doing so helps maintain our city's unique DNA intact. Thank you.

Mayor Lago: Thank you.

City Clerk Urquia: That's it, Mr. Mayor.

Mayor Lago: Okay. So, I just want to put on the record, I think it's important. We had three speakers in opposition. All three speakers blew through the timeline. 30 seconds, 25 seconds, and over two minutes on the last one. I want to be fair where fair is appropriate. There're multiple times my colleagues on the Commission want to talk about how we don't adhere to Robert's Rules, we don't adhere to the guidelines here on time, and I want to put it on the record. I'm more than willing to give time to everyone, and we talk about the length of meetings, but this is a reason why meetings are super extended. Besides the fact that we have people speaking about issues that, again, in my opinion, I don't know why they're speaking about issues. They have to speak on every single issue. So, I think it's great. I love our democracy. I think it's important, but there's a timeline. There's a clock, and we have people to adhere to it, but I guess it's only good for some, but not good for all. So, moving on to the item, is there any else in the public comment? Nothing else? Okay, perfect, we'll close the public comment. Does the Commission have any comments? Do they have any questions for staff? Would they like to hear any further information?

Commissioner Castro: Through the Mayor.

Mayor Lago: Yes.

Commissioner Castro: Did we amend the time to two minutes for public comment?

City Clerk Urquia: Yes.

City Attorney Suarez: For this matter, yeah. There was a procedural order for this matter that was two minutes. Since it's not testimony, just two minutes. But as you know, the Mayor let them speak and finish all their comments. So, I don't think there was, nobody was cut off, to be clear.

Commissioner Castro: No, no, absolutely not.

Mayor Lago: And if I may, this is nothing new. This is the way it normally is.

City Attorney Suarez: Correct, Mayor. Typically for these appeals, we-

Mayor Lago: I want to be very clear, because the Commissioner's been on the Commission for three years now, and this is nothing different. When it's a quasi-digital item like this, we have the time at this limit.

City Attorney Suarez; For the appeals, yes.

Mayor Lago: Yes, for the appeals. Okay.

Commissioner Castro: Okay, so then the other thing that I was, I had some concerns about while the applicant was up there. When we apply for a permit, yeah, when we apply for a permit and a variance, and we put a permit up to date, it has to be up to code, even though it's the same pool or whatever the case is, you need to abide by it, you know, you're not grandfathered in. And once you start doing renovations to a property, you need to comply with whatever zoning code is the most up-to-date zoning code, okay? Now, why would they be able to comply? Why would they not, you said that the new owners would not be able to comply with the special conditions because there was an adult with, or a child with disabilities or developmental disabilities. Can you go further on that?

Jeff Rodriguez: Yeah, that was their concern that they expressed to us, and we advised them of the ruling of the board. We brought to them the conditions upon which the variance was granted. The buyer and their attorneys expressed concern because the buyer is an elderly woman and she has a special needs child. And she was concerned because there's an ongoing perpetual maintenance requirement regarding the cover. And the covenant runs with the land forever. So as long as she's the owner of this property, at any time that there's something happens to the cover that's installed, they have to go out, and they have to install it. And according to them, they're having concerns regarding that, the ability to comply with that.

Commissioner Castro: I'm just trying to find the connection to how, I mean, why would it be an issue?

Jeff Rodriguez: They've expressed that it's an issue for them.

Commissioner Castro: Okay, the other thing, there's also a quote from the mechanical noise ordinance. I, according to the city is going to reduce it by 50 percent, right. Now we are going to provide an exception or a benefit to you to go ahead and approve this variance, right? With conditions. A variance is not something you're entitled to. It's a bonus, it's something you apply for and if we feel it's appropriate, we grant it. Now I think it's only fair that if we're granting the variance, you comply with the conditions. I went into Google Maps, I looked at the property where the pump was located, I looked at the pump, I was trying to find every justification to be on your side.

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Jeff Rodriguez: Yeah, and I actually, it's funny you mentioned Google Maps, you can't see the pump from Google Maps. There are so many trees surrounding my client's property, surrounding both neighbors' properties. You cannot physically see the pool equipment from the air. I've measured it, I actually have a video that I proffered to the City Attorney, but they said we couldn't bring in new evidence. But there's a video that shows my client standing next to his pool equipment at three, four feet away and then he walks over to the neighbor's pool equipment at 10 to 12 feet away and their pool equipment is twice as loud as ours. This is new pool equipment. It's much quieter than the existing pool equipment that our rear neighbor has.

Commissioner Castro: So, does this pool equipment sound more than three decibels?

Jeff Rodriguez: I couldn't tell you the actual decibels.

Commissioner Castro: So, three decibels is almost like nothing. It's like ambient, like literally nothing. And this has to be measured from the other property, the property that's complaining basically.

Jeff Rodriguez: Right, and that's kind of the point of why we're appealing. The covenant itself would require Code Enforcement to continuously go out and make sure that it's below the noise level. Anytime the neighbor says, oh, I think I heard it a little loud, Code Enforcement has to come into the backyard and say, oh, I need to go measure the pool equipment and make sure that it's below the 50 decibels, the 50 percent reduction, because that wouldn't, right. When we started going through this covenant process with staff, one of the questions that came up is that, well, now we need to set up a baseline decibel reading for this pool equipment, and then forever, Code Enforcement will be able to go into the backyard at the neighbor's request to come in and measure whether it's still a 50 percent reduction. It's something that seems overly cumbersome. The reality is that if he had moved the pool equipment two-foot one way and two-foot another way, he wouldn't be required to put a concrete wall, an acoustic fence, shrubbery, anything. And anyone who thinks that two feet one way and two feet another way would actually have made a difference on the noise level heard by the neighbors in the back, it's unreasonable to think that, right. So, what we're asking for is, we understand that it's an accommodation. We understand that the variance is an accommodation, but we think it's a reasonable accommodation. We think there's no public benefit to forcing the client to move the pool equipment that was there when he bought the property, right. So, we're penalizing him for coming in and seeking a permit to improve the pavers around his pool and other improvements. Yes, he did a construction to his house. Everyone does construction to their house, right. We're penalizing him now for coming out and doing the right thing with pool equipment that was existing at the time. So, while we understand it's an accommodation, we're requesting that you respectfully grant the accommodation.

Commissioner Castro: Thank you.

Mayor Lago: Vice Mayor, you had something you'd like to say?

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Vice Mayor Anderson: Yeah. I just, distance sometimes doesn't make a difference when you're talking about pitch and noise. I was hearing the mariachi horn from the Mexican restaurant three blocks away from my house because of the pitch and noise. My neighbor's air conditioning bearing was out, and that's 55 feet away from the front of my house. And I could hear that as well. So, two feet is not going to make a difference. What I don't see in the record, and it makes it difficult to make a determination on, is what is the decibel level of this equipment comparative to the next-door neighbor's equipment? The record seems to be silent on that. Is there any information that you can share with us?

Jeff Rodriguez: We don't have any decibel readings of the pool equipment. But I can tell you that the pool equipment that's installed and will be permitted, as revised, is some of the latest pool equipment available. And these latest pool pumps are much quieter than previous pool pumps installed around town. But I don't have an actual decibel reading for it.

Vice Mayor Anderson: Is there a decibel reading that can be stipulated to, that will be maintained at, that is maintained properly because the bearing across the street, 55 feet away from the front of my house, you could hear through the impact windows until it was replaced. And once it was replaced, it was fine.

Jeff Rodriguez: I mean, I have a video, which I was not allowed to put into the record. I have a video that I sent to the City Attorney that shows how loud it is. And then it walks over to the neighbor's pool equipment and shows it much louder at much further distance.

Vice Mayor Anderson: I'm going to ask staff if there is a decibel limitation on pool equipment that exists.

Deputy City Attorney Stephanie Throckmorton: Yes. So, the code does address mechanical noise like pool equipment. And just for the record, the videos that were submitted yesterday were new testimony. And that's why they were not part of the record below. To the extent you all want to see them, you can. I just want to be clear that they were not part of the record below. And that's why they were not initially placed on the agenda. If you all want to see them, you're more than welcome. But they were not part of the record below. Yes, mechanical equipment, including pool equipment, is addressed by the zoning code. I'm not aware offhand and perhaps we have someone from Development Services who knows the, oh, you have it.

City Attorney Suarez: So, the code provides that in single family residential districts, between the hours of 11 PM and 7:30 on weekdays essentially, the maximum sound for mechanical noise is five decibels above ambient sound level, or maximum of 55 decibels. And then at all other times, so most of the time, it's 10 decibels above ambient sound level or a maximum of 60 decibels.

Jeff Rodriguez: And we're happy to stipulate that the pool equipment will be below that level. We have to call for a final building permit on this matter. One of the, obviously, one of the approvals that we need is a zoning approval, final zoning approval, which is contingent on approving this

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variance. So, if you wanted to put something on there that they have to confirm that it stays below the decibel.

City Attorney Suarez: So that is the city code. So, they have to comply with that.

Jeff Rodriguez: Correct. And we do.

City Attorney Suarez: We want to make that more specific, but they already have, everyone has to comply with that.

Jeff Rodriguez: And we do.

Vice Mayor Anderson: And what are the hours of operation of the pool equipment?

Jeff Rodriguez: I couldn't tell you. He has a young child. So, I'm sure they use it just as much as any normal resident would. I don't think they have any restrictions. I don't think they're going to be using it very late at night. Their child was just born.

Vice Mayor Anderson: Okay, no, I'm just trying to make it clear because noises are louder late at night than they are during the day because you're going to hear them more often. I've had a detailed conversation with our Police Chief about different types of mufflers on vehicles that you don't notice them during the day. After a certain hour, they become very shocking in the way of noises.

Jeff Rodriguez: I don't think that's going to be a concern at this property.

Vice Mayor Anderson: You have information regarding the hours of operation of the pool equipment, when the pumps are going to be running, because they're not always running 24-7, are they?

Jeff Rodriguez: No, I don't know the hours of operation, but again, my client is eventually going to be selling this property. So, the elderly buyer and her special needs son, they may have specific use during the day. I don't know if they'll be using it at night. I couldn't really tell you the hours of operation, but anytime they're operating it, I can almost assure you that it's going to be within the city's decibel level requirement.

Vice Mayor Anderson: So, I'll ask city staff, are there an hours of operation where overnight when people are trying to sleep that these pumps are not running?

City Attorney Suarez: It's more restrictive. The sound levels are more restrictive during the overnight hours. So, it's five decibels above ambient sound or maximum of 55 decibels, whereas at all other times of daytime, it's 10 decibels above ambient sound level or maximum of 60 decibels.

Vice Mayor Anderson: And where is it measured from?

City Attorney Suarez: It's measured from the property line of the sound affected site or unit and the zoning district where the sound affected site or unit is located, shall apply. They should be measured from the real property line of the sound affected site or unit.

Vice Mayor Anderson: So, you can measure it from either the property line? Right. Essentially.

City Attorney Suarez: Essentially the property line, yeah.

Vice Mayor Anderson: Okay, and we don't-

Jeff Rodriguez: Madam Vice Mayor, I just got a message from our client that he shuts off his pool equipment at six o'clock every night.

Vice Mayor Anderson: Is that on a timer or is that manually?

Jeff Rodriguez: Yes, on a timer.

Mayor Lago: Madam Vice Mayor, anything else? For the good of the order.

Vice Mayor Anderson: No.

Mayor Lago: Anyone else? Commissioner Lara?

Commissioner Fernandez: Through the Mayor.

Mayor Lago: Yes.

Commissioner Fernandez: All right, I do have some questions. And Mr. Rodriguez, we've known each other for many years. During your time as Vice Mayor in Miami Lakes, I've always held you in high regard.

Jeff Rodriguez: Thank you, sir.

Commissioner Fernandez: I do have concerns with, you know, what I would consider muddying the waters. You know, we're talking about pool equipment, now we're talking about who the new owner is going to be. And what we should really be considering is the current situation where we're at. Looking at the picture in staff's presentation at the April 13th meeting, if we're measuring those decibel levels, it seems like it's about two feet away from where the pump actually is because the property line is just adjacent. I don't know if we can pull up staff's presentation.

Jeff Rodriguez: No, there were never any decibel readings made.

Commissioner Fernandez: Right, that's why I'm saying, if we were to read those decibels, it's right there. I understand that the perception of two feet one way and two feet another doesn't make a difference. But if I'm speaking here and I move back two feet, I move over two feet, all of a sudden, you can't hear me. You have a mic. And it's not a major difference. I moved two feet back, two feet to the side, which is exactly what we're talking about. And it makes a difference. What is, and I guess this question is for staff, what is the requirement that's being put as far as what would need

to be implemented that would require maintenance going forward? Is this just a cover? Is it a structure that protects it? What is it that's being required?

Deputy City Attorney Stephanie Throckmorton: So, during the meeting, the applicant proffered the cover. What the board extended was that the cover be required in a covenant running with the land and so that the covenant be required to be maintained throughout the length of use of that pool pump in that current location. So, the board required the covenant that would ensure that a similar acoustical cover, it doesn't have to be the exact one, be maintained on the property at all times and that the cover maintains a reduction of 50 percent decibels. I don't know if that's the correct term, a reduction of sound of 50 percent. The details of how it was to be measured, how the covenant was to be drafted were left to the property owner and I and our office to work out after the meeting. So, those are the details that it would be maintained at all times while that equipment is in that location.

Commissioner Fernandez: And look, I guess for me, that's where the biggest question is. This wasn't something that was proffered by the board, it was proffered by the applicant. And in fact, if we go back to the recommendation for staff it was complete denial. So, for me, based on the questions that the City Attorney posed, we're considering here today, it's very difficult for me to say, your rights are being violated by us affirming the decision by the board or even remanding it back to the board to ask them to reconsider whether a variant should have been accepted at all. Because we are imposing an undue burden on the direct neighbors of this property by accepting this. And I understand, you did mention that there is, this was a preexisting to their ownership. Did they have a seller's disclosure which stated that this was done illegally?

Jeff Rodriguez: No, there wasn't a seller's disclosure and unfortunately, when you do a real estate closing, if there hasn't been a violation issued, a lien search or permit search would never have shown up. That was not conforming. They would have had to have known about the ordinance before. So yeah, they were not aware.

Deputy City Attorney Stephanie Throckmorton: Mr. Mayor, can I just address something that Commissioner Fernandez brought up? I just want to be clear for the record that the property owner did proffer the acoustical cover, they did not proffer the covenant. That was a requirement of the board. So, the ongoing obligation to have the cover was one brought up by the board, just to be clear.

Mayor Lago: Anything further?

Commissioner Fernandez: Well, actually, yeah. So, if you're proffering an acoustical cover, is it just to have it hanging on a wall? I mean, it's to have it over-

Deputy City Attorney Throckmorton: I'll defer to the applicant on that.

Commissioner Fernandez: So, it would imply that there is a covenant to have that over the pool equipment. I mean, that's what makes sense. I understand they may not have used the term covenant, but when you're proffering that you're going to have this, that's to reduce the noise that you're having on the neighborhood.

Jeff Rodriguez: Commissioner, if I may, the first meeting that we had on this was in April. During the meeting, it appeared, to me at least, that the board was going to approve it. Then public comments came up, and the neighbors came up and spoke against the item. The board decided to defer the item for one month to allow us time to reach an agreement, be neighborly. My client proffered some hedges to try and dampen the sound a little bit. The neighbors were requiring a concrete structure around the pool equipment which was brought up in the meeting whether that was even allowed under the code, whether we can put a concrete structure around that area. In an attempt to try and reach an amicable solution, we proffered the pool pump cover. At that point, they still came up and said that they were not in favor of that. They also -- then the board decided to make it a covenant running with the land with perpetual maintenance requirements and perpetual testing requirements. That was something that got my client concerned, but even more concerning for the future buyer. So that's why we had an issue with the covenant, with the conditions that were placed on the variance.

Commissioner Castro: Through the Mayor.

Mayor Lago: Excuse me one second. So, anything else? Okay. Okay. Few questions, few statements. Let's see if we can go back and forth. I think the effort here is to find some middle ground. Was to your knowledge, and I'd like to see if our City Attorney could come up here also. Was to your knowledge with the previous pool equipment, which I think we can all say with confidence that older equipment is much louder, right? You run a lower decibels, new equipment runs at lower decibels, wastes less energy. Obviously, we're moving into a new era. The last 10, 15 years, everything from computing to equipment to engines, you're trying to waste as little energy as possible. Correct?

Jeff Rodriguez: Correct.

Mayor Lago: Was there ever a violation in regard to the old pool equipment that was placed within a setback and was placed without obviously a permit?

Deputy City Attorney Stephanie Throckmorton: I'm not aware of one.

Jeff Rodriguez: No, there was not.

Mayor Lago: Okay. So, we can both say very clearly that that pool equipment was obviously old and was obviously much louder than the current pool equipment.

Jeff Rodriguez: Right.

Mayor Lago: It's pretty common sense. You buy new pool equipment, you install it. You buy a new computer. Everything works much smoother, new technology. You're obviously lowering the energy use. So, you're expecting it to be a lot more efficient. I don't think that's anything-

Jeff Rodriguez: Correct.

Mayor Lago: Bias or anything that we're saying that is out of the norm. So, there was no violation. And we're looking at the old versus the new. One of the issues that I think we need to really figure out here is the middle ground. Why do I keep bringing up middle ground? Because you brought up a video that I haven't had the privilege of seeing and none of the Commissioners have, the City Attorney has. We can watch it today, but it cannot be considered in regard to our decision-making. I'm pretty sure that that video is going to show that the neighbor has a pool pump that you can hear from 15, 10 feet away, whatever number that is. Why all of a sudden was there an issue with the pool pump? That's the big question. So now we've in the public record, not me, been brought up by other Commissioners that the neighbor's pool pump is very loud. So now the new owner, whoever that owner may be, is going to step in and say, now call Code Enforcement on the neighbor now, and they're going to have to address their issue in regard to the pool pump and spend thousands of dollars replacing all their pool equipment. That's what you don't want to see in Coral Gables. So, I would like to see that video. I think it's important.

Deputy City Attorney Stephanie Throckmorton: You're more than welcome to see it, Mr. Mayor. As we mentioned, it's not from the record below.

Mayor Lago: I understand that, but it's been mentioned multiple times before I started speaking about the fact that it has evidence that should have been shown to the previous board that reviewed this and made the recommendations. I don't know why it was not shown.

Deputy City Attorney Stephanie Throckmorton: Yeah, it was not provided to the Board of Adjustment.

Mayor Lago: So, we're not here to debate whether the gentleman, the applicant installed the equipment, or he didn't install the equipment in the setback. That's already done. Again, we have to fix that. That's already been fixed by the variance that was granted by the previous board and now it's being considered by the Commission. I think we could have a solution here, okay? Let's alleviate the situation here. Let's accept the removal of the covenant but make sure that the cover stays on. The cover could stay on in perpetuity. The noise would dampen. We don't have any actual information right now whether with the new pool equipment, there's actually a violation of the existing noise ordinance which to me makes it very difficult right now. But you neither have proof that there's a violation. All you have is proof is that new equipment was installed on the setback because he basically turned himself in when he provided a permit to correct the previous owner's violation, which was not a violation, but the illegal act of installing a pool permit, excuse me, a pool pump in the setback. Am I correct, or no?

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Deputy City Attorney Stephanie Throckmorton: Correct.

Mayor Lago: So, no good deed goes unpunished here, right. So, I think here we have to find a compromise and we have to put politics aside and say, how can we deliver on this? How can we deliver on this? I'm perfectly fine with leaving the pool pump cover on it. The neighbor's going to know if the pool pump cover comes off because obviously, they're being very vigilant. But I think that adding a covenant which requires perpetual maintenance is something like I've never seen before. I've never seen that type of heavy handedness ever. And let me tell you why. And I've been here 13 years, okay. I've seen it when developments come and they say, hey, we do a traffic study every year for four years. That requires perpetual review for not even perpetual, 5, 10, 15 years. And if certain benchmarks are hit, that developer has to pay into the public trust in one form or another, whether it's sidewalks, whether it's traffic calming, whatever that may be. We've done it on multiple different projects, constantly monitoring to make sure that the impact is lessened. So, I think that we can find common ground here. One thing that I don't like, and this is just my personal opinion, we all live in Coral Gables. Most of us here on the Commission four to five are property owners here in the Gables. To talk about property value increases and how much someone's selling a home for, and that kind of stuff is tacky. You know, we can do better than that. We want someone to buy the house or to live in our city. And once they move on, whether their family grows, like this case, that's why they're leaving the house to a bigger house, you want them to celebrate the fact that they sold the property or more than what they bought it for. That's what a healthy city is. People want to move to our city and we welcome that. So, to me, I don't think that's really should even be considered and it's something that we shouldn't talk about because one day the neighbors are going to sell their property and they're going to want to sell it for maximum dollars. And they're going to want to receive as much money as they possibly can. So, I like to proffer the applicant if they're willing to accept it, that the cover stays on. As you can tell, we have issues here, obviously. That the cover stays on, but that the covenant is removed. And that we work as neighbors, because these neighbors are going to have to work with forthcoming neighbors. And that we do things in the right way. That is collegial, that is respectful. But also, let's not take it out on the person who's selling the home today. Yeah, he made a mistake, he bought the property, but he's not a contractor, he's not an engineer, he's not an architect, he's not a surveyor, he's not a lawyer, he's not a person who checked to see if a pool pump, and that by the way, and as we can see, as you can tell, because both of your attorneys, when you have disclosures, they're not checking every last inch of certain things. They're very careful, they do three-point inspections, but this is above and beyond. So, I'd like to see us find a middle, I'd like to see if we can, can we address one thing? Because the individuals who spoke before keep raising their hand. Can you explain Madam City Attorney the process that we do here? I don't want it to come from me, because then they say that I'm not being fair.

City Attorney Suarez: So, Mayor, I think you've already closed public comment.

Mayor Lago: Yes.

City Attorney Suarez: So, there was an opportunity, and you've closed public comment. It is always up to you though, if you wanted to take more.

Mayor Lago: Thank you, but we do not make that, we do not really make that comment here in the city, correct?

City Attorney Suarez: Correct, Mayor.

Mayor Lago: Thank you. Okay, so I'd like to see if we can reach a middle ground and move forward. Are you okay with my proffer?

Jeff Rodriguez: Mr. Mayor, the cover was proffered by my client.

Mayor Lago: Yes, but I'm saying. But beyond that, we're not here to talk about who proffered it.

Jeff Rodriguez: If he installs it, and there's no perpetual requirement, maintenance, oversight, that was the concerning part. The covenant was the one that was really bothering him.

Mayor Lago: Okay, and my final concern I want to mention again, just so my colleagues understand it. When you start putting these perpetual, you know, maintenance requirements on homes, it's just, again, another wall, another issue that someone has to deal with. Imagine having to be a homeowner and have to deal with the government and provide every single year a document. Let me give you an example. I don't know if you checked your emails late last night, but there was a report that came in, and I'm not going to mention it here, because I don't think it's appropriate, from a private entity that does business here in the city of Coral Gables, and that they have to provide a yearly report, a yearly report in regards to students, how many, census that was provided to the Commission through the Manager's office yesterday. You know, it's not to that magnitude, but I think that to me, that's a little heavy handed, and we don't want to, you know, when you're talking about, you know, somebody who owns a business here in the city, and they have hundreds of students, that's a different situation. But when we're talking about a homeowner, I think that especially, you know, we don't want to be known as people who are, you know, putting perpetual easements on properties, because I think it's just a little too much. And I think that we as a city can achieve the same goal with the cover without having that covenant put in place.

Commissioner Lara: Through the Mayor.

Mayor Lago: Yes, sir.

Commissioner Lara: Just a quick question. I don't want to derail your proffer and the conversation.

Mayor Lago: You can always do a friendly amendment if you like.

Commissioner Lara: No, no, no. It's actually just a question to understand the record a little bit better. So, both to the applicant and to City Attorney. Was there ever a complaint on the property

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with respect to a noise violation or setback violation at any time prior to the applicant seeking the permit?

Mayor Lago: Commissioner Lara, if I may. I asked that question a few seconds ago, and the answer was no. So that's what I find very interesting.

Deputy City Attorney Stephanie Throckmorton: I'm not aware of it.

Mayor Lago: And that's why Commissioner, that's why Commissioner I led with. So, you had full equipment for, let's say, 10 years. I don't know, I don't know the amount of time. It was five-year-old pool equipment. It made more noise. It was not as technologically advanced as it is today. You install brand new equipment with a permit. And now is when you get a code enforcement violation, not over the years.

Commissioner Lara: Right, and I definitely wanted to make that crystal clear, because I think just taking it to a level set moment, right, I mean, what's really going on. And I just wanted to understand that crystal clear that there was no complaint, at least not in the record, of any resident or neighbor concerning any excessive sound with respect to the pool equipment that the applicant, when he bought the property, had already had installed on the land. And that's a no, right?

Jeff Rodriguez: Correct, that's a no.

Commissioner Lara: And was there ever any complaint by any resident with respect to the setback violation of a couple of feet in each direction ever made to the city prior to the application for the permit?

Jeff Rodriguez: Not to my knowledge, and not to my client's knowledge.

Commissioner Castro: Through the Mayor.

Mayor Lago: Just one second. So, to put it in more context, what I'm asking is to affirm the decision with condition to remove the covenant. Are you okay with that?

Jeff Rodriguez: I'm okay as long as he gets to install a cover.

Mayor Lago: Yes.

Jeff Rodriguez: And then what was proffered at the board was any cover that reduces the sound by 50 percent.

Mayor Lago: I just want to make sure, because now I want my colleagues to consider what I'm offering.

Jeff Rodriguez: Correct.

Mayor Lago: And as long as you're fine with that, and your client's fine with that, I'd like to move on.

Jeff Rodriguez: My client is okay with that.

Mayor Lago: Yes, Commissioner.

Commissioner Castro: Okay. So, when the Vice Mayor was saying her comments, I started thinking, I don't know how many of us here on this dais have a pool in our home. Maybe I'm doing it wrong. I don't turn off my pump. I don't even know how to.

Jeff Rodriguez: You should.

Commissioner Castro: Yeah, well, then.

Jeff Rodriguez: It shouldn't run.

Commissioner Castro: Huh? You turn it off too?

City Attorney Suarez: It's probably in a timer, is what I said.

Jeff Rodriguez: Yeah.

Commissioner Castro: Okay, well, I guess I'm wasting a lot of energy. Yeah. So, my question here is, we can control the noise and the time of operation of pool equipment, especially when a home is being up for sale, right? We can't control the behaviors of the new homeowner. And if that new homeowner goes ahead and sells to somebody else, we can't control it. The only way we can control it is by putting a covenant on the actual land, right. Because yes, maybe the homeowner now is going to comply, but what guarantees us that the following homeowner is going to comply and the owner after that is going to comply?

Jeff Rodriguez: Well, I think the City Attorney mentioned it. At no point has this pool equipment been outside of the noise ordinance. This has never been a noise ordinance issue. This has always been a setback issue. And the argument was complying with the setback, A, would not require us to put any covers at all, zero. And it really would be a negligible effect on what the neighbors in the back are hearing. It's two feet one way and two feet another way. So, to get to your point, the compliance is going to be, we still have to comply with the noise ordinance, and our buyer will still have to comply with the noise ordinance. If they go outside of that noise ordinance, then they'll have an issue. That's the concern regarding the noise.

Commissioner Castro: So, there's nothing that would guarantee us that this cup is going to stay on for a certain amount of period, even if the house is sold, right? Now, I believe that the Board of Adjustments was gracious enough to grant this variance. I don't think it's a hardship to go ahead and do this covenant for the protection of whoever else buys this house. So, for that reason, I'm going to go ahead and move to affirm the board's decision.

Vice Mayor Anderson: Before we take a vote, I need to make some additional comments. And I wrote down some notes here because based upon what I'm hearing, it's taking form over substance. I also have a pool pump within a few feet of my fence. Doesn't bother me until the bearing goes.

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And I talked to my neighbor. I said, you know, you might not have known, you have a bad bearing on your pool pump because this is indeed closer to my house than it is to his windows to his bedroom. It's called being neighborly. I also got the call from neighbors near the Lowe's about fans, exhaust fans that were making excessive noise. And the reason they were making excessive noise, again, was because of the bearings in the fans were worn and squealing, even though it was a new set of bearings. Bad metal, whatever it was, lack of oil, lack of grease, bad installation, faulty installation. Whatever the cause, the noise was reverberating a block away. That's what form over substance is. If you're compliant with the decibel ratings required of our code, then there's no issue. No amount of covers are going to ameliorate a bad bearing because it squeals, it's like nails on a chalkboard. It's very bad, okay. I recognized it because I had a father who was a mechanic, an engine overhaul. He had my hands deep in all kinds of stuff when I was young. So, I know what the sound of a bad bearing is, and I communicate with my neighbors when they're bad because it disturbs my sleep, it disturbs my dog's sleep, it disturbs the entire neighborhood, and it's annoying. So, form over substance. The issue here is the noise. We have no record of what the noise decibel level was. We have no record that shows that the decibel levels exceeded what the code allowed at the property line. So, if you're going to base a record or a finding on a board based upon competent substantial evidence, and the evidence is not there to support that finding, then you have a deficient record. Yet we have a proffer to put a cover on. Covers don't stay on permanently. They have to be taken off during hurricanes, they have to be taken off during maintenance, when you're redoing various things and maintaining or changing the settings on the pumps, et cetera. So, a condition that requires it never ever to come off is unrealistic. Again, form over substance. The issue is noise. The record is absent of anything that shows that there was excessive noise that exceeded the code that we have in our city. Granted, we do have variance requests for a variety of reasons. Whether it be wall heights, so people aren't annoyed by the noise of a busy street, or the lights of a truck coming around a traffic circle. Every instance in which we have conditions in our code cannot be always anticipated. That's why there's a variance procedure. But when you have a variance that's being requested that takes form over substance, we have to step back and look at what makes common sense. And if it doesn't make common sense, then we find a way to meet people in the middle, get down to the core of what's important here, controlling the decibel levels and the annoyance of the neighbors. Because if indeed what was mentioned to me, that the neighbor's pump is louder than this one and is more annoying, again, we're going to have this neighbor's war, and I've had to settle a few of those during my time on the Commission. I'm sure you've had to do it in your capacity as well. And it becomes a never-ending cycle unless you take people back and say, let's step back and look at what's really important here. Because we need to work together as a neighborhood to get along with each other and work together so we make our entire neighborhood a nicer place to live. So no, I will not second that motion.

Commissioner Fernandez: Through the Mayor.

Mayor Lago: If I may, we have a motion. I just want to make sure we don't have a second.

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Commissioner Fernandez: I second it. So, the reason I second this motion, I think this is the middle ground. I think the residents are not happy with this variance granted even with the condition. I think granting this variance is a middle ground from having to move the entire structure as they would be required to do based on our code and which is what the residents are requiring and not doing anything at all. The other thing that really concerns me is the fact that we're already being told that the new owner doesn't want to do this. They have concerns with this being something that they have to take care of in perpetuity. And in my opinion, if we don't have some sort of protection for the neighbors, it is now going to become an issue where the neighbors are constantly going to have to be monitoring the situation, calling the city to file a code enforcement complaint. And I think this is an opportunity that we have to ensure that we don't have a neighbor versus neighbor issue like the Vice Mayor is saying, because we have some assurances on our side that this will be taken care of. Now, as far as the Vice Mayor's comment that it would have to be taken off, it does not. My grandparents' house had a pool and as just them wanting to be neighborly, they built a structure around it, which covered the pool pump, and they put soundproofing on the inside to ensure that there wasn't any noise that was going towards the neighbor's house because of the proximity and location to the neighbor's house. Miami-Dade County, so the setback wasn't an issue, but it was just them trying to be neighborly and ensure that next to somebody's bedroom, you don't have a pool pump that's going at any time. So, I think what has been proffered and the Board of Adjustment has moved on, I think is a fair compromise between what the neighbors are requesting and what the applicant is requesting in light of the fact that we already have concerns about the new owner not having an interest in maintaining this going forward.

Mayor Lago: So, if I may, so we have a motion and a second. When I gave my comments, I was trying to have my colleagues, I was giving my colleagues deference to see if they would at least speak about what I proffered. Commissioner Castro jumps in with a motion. That was not the purpose, but obviously we have a motion and a second. Mr. Clerk, can we have a vote, please?

City Clerk Urquia: Yes, Mr. Mayor.

Commissioner Lara: No.

Vice Mayor Anderson: Based on the absence of information on the record as to the necessity for a running covenant and my prior comments, no.

Commissioner Castro: I went ahead and I addressed your concerns, and a covenant is the only way to go ahead and guarantee that the cover is going to stay on after the property is sold. It has to be attached to the land, and it cannot be at the discretion of the homeowner because there's going to be different homeowners. So yes.

Commissioner Fernandez: Yes.

Mayor Lago: The answer is no. Let me explain to you what the next move is, okay. The next move is a very simple one. When the property changes hands, the cover's installed. If the cover does not

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work, code enforcement will be there immediately. Now we have a problem though, because now on this record here, we said that the neighbor's pool also makes excessive noise. And there's a video that is a public record that is in the hands of the City Attorney. We have so many people here who love to chase down public records and then use them in the blogs. So now we have exactly what I was trying to avoid. We have neighbor on neighbor conflict. Madam City Attorney, give me a percentage. I won't hold you to it. How many covenants like these have you ever seen put onto a residential property here in the city? This is the first one that I've seen.

City Attorney Suarez: Mayor, I cannot give you an answer to that. I do know that over the years, there have been covenants in specific situations, sometimes with historic properties, or even with variances that there's reasonable conditions and those are often, or sometimes immortalized in a covenant. But I cannot give you any kind of statistic on that.

Mayor Lago: No, but those covenants, let me correct myself, make it a little bit more difficult on you. I think it's very easy to slip out of that. When have you ever seen a performance covenant like this? I have been here 13 years, and I have yet to see one that requires in a residential home that requires a performance covenant where the city can step onto your property and say, no, this is not working. If there's noise, if there's noise, that's why we have code enforcement. Code enforcement will come out and address the issue. Then why do we have a Code Enforcement Department here in the City of Coral Gables? Why? Why do we have a Code Enforcement Department? The intent of the Code Enforcement Department is to make sure, just like we have inspections. When you're building, you have the inspectors come out and you have what is called a setback inspection. When you provide a survey by a certified surveyor and it says, the applicant is building the following structure and it meets the setback standards as per the zoning approval, whether it's in residential or in commercial. There are checks and balances here in the city. If we're not going to start applying these covenants to every single residential neighborhood, you're going to be in a situation where why have code enforcement? The intent of code enforcement is that the neighbors have an issue with the noise. And this is my concern now, because now you have on the record, and I want to be very clear, because it'll be used against me later on the blogs. I didn't bring this up. It was brought up multiple times before we even talked about it here, that the neighbor has a pool pump that is incredibly loud. And that, again, these are residents that coexisted. There was an issue, and everything was perfectly fine. Nobody called code enforcement on anyone. And all of a sudden, now it's an issue. So, I'd like to bring this in for a landing. I've proffered consideration for my colleagues before Commissioner Castro's motion. And I'd like to see if we can move forward, Commissioner Lara.

Commissioner Lara: I'm going to try and see if we can jump on a landing. Okay, just think this kind of, and I think I'm understanding the situation pretty well. So first of all, what we don't have, and that's why I was asking the questions before the City Attorney and the applicant. The record

doesn't reflect any evidence with respect to the decibels, the sound decibels with respect to the property at issue. Am I right, again?

Jeff Rodriguez: Correct.

Commissioner Lara: Okay, and the Vice Mayor articulated it very well. This issue seems to be about sound, because it is quite canopied when it comes to visual. And really what the variance was seeking was being permitted to stay where it's currently located and not be required to be moved a couple of feet in either direction. Can't see it from above, can't see it from next door. So, it's about sound, right. So, I'm not in favor of legislating constantly around picayune or idiosyncratic concerns that residents may have, because the more you legislate around it, the more you subject yourself to further complaints, litigation, or confusion regarding its enforcement, indeed, its interpretation. So what I think is the best way to handle this, and consistent with having code enforcement, and since no one has complained about the sound, to my knowledge, to date, is that I would like to move actually to grant the variance that was sought originally, with no covenant running with it, so that it can remain where it lies presently without having to be moved a couple of feet in each direction. So, grant the variance as sought. And should there be a concern between either the current residents or future owners of the property as it pertains to any claimed violation of the sound, we already have a process and a procedure to attend to such concerns, rather than us trying here to legislate around a problem that hasn't even been brought before the board or this Commission. So, my motion is to grant the variance sought with no covenants.

City Attorney Suarez: Mr. Mayor, can I just clarify procedurally? I believe then it would be a motion to affirm the decision of the Board of Adjustment with conditions, with your condition being that the covenant requirement be removed from their approval.

Commissioner Lara: Correct.

City Attorney Suarez: And the cover.

Commissioner Lara: Those two, correct.

City Attorney Suarez: Understood.

Vice Mayor Anderson: I second that motion. As I had, my notes had something similar, because we don't have a decibel reading. So future owners can always proffer to put a cover on if they cannot achieve the acquired decibel reading at the property line. So not having something that is form over substance here. The substance is the noise issue. And it can be offered as a way to deal with the noise. And if anybody's ever done maintenance on pumps, they know that the covers must come off in order to do that. So just so you're aware, Commissioner Fernandez.

Mayor Lago: So, we have a motion and a second. Okay. Anything else further from the Commission? Anything else? Okay.

Vice Mayor Anderson: Yes.

Commissioner Castro: No.

Commissioner Fernandez: No.

Commissioner Lara: Yes.

Mayor Lago: Yes. Thank you.

Jeff Rodriguez: Thank you very much.

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