

City of Coral Gables City Commission Meeting

Agenda Item E-1

January 25, 2011

City Commission Chambers

405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Donald D. Slesnick, II

Vice Mayor William H. Kerdyk, Jr.

Commissioner Maria Anderson

Commissioner Rafael "Ralph" Cabrera, Jr.

Commissioner Wayne "Chip" Withers

City Staff

City Manager, Patrick Salerno

Interim City Attorney, Lourdes Alfonsin

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Building and Zoning Director, Carmen Olazabal

Zoning Official, Martha Salazar-Blanco

Public Speaker(s)

Zeke Guilford, Attorney Representing Jeff and Cathy Bartel, Applicants

Jeff Bartel, Applicant

Bill Ogden, Coral Gables Resident and President of Hammock Lakes HOA

Lydia Touzet, Coral Gables Resident (Lake Lane)

Joellen Strum, Coral Gables Resident (Hammock Park Drive)

Jay Massirman, Coral Gables Resident (Hammock Drive)

Mario Garcia-Serra, Expert Attorney for Applicant

Laura Russo, Expert Attorney for Applicant

Tucker Gibbs, Expert Attorney for Applicant

E-1 [Start: 10:43:28 a.m.]

APPEAL

F.W. Zeke Guilford, Esquire, Applicant, has filed an appeal to the Coral Gables City Commission from a decision of the Board of Adjustment at its regular meeting December 6, 2010, wherein it denied an application for variances for the

property located at 4995 Hammock Lake Drive pursuant to the provisions of Ordinance No. 2007-01, as amended and known as the “Zoning Code.” (Board of Adjustment Vote: 5-2) (Deferred from January 11, 2011 Meeting)

The Applicant is appealing the decision made by the Board of Adjustment to deny the following variances related to the proposed new single-family residence.

- 1) Grant a variance to allow the single-family residence to have a lot coverage of (22.5%), nine thousand, one hundred and fifty square feet (9,150') vs. no single-family residence shall occupy more than (15%), six thousand, ninety-two square feet (6,092') of the ground area of the building site upon which the residence is erected, as allowed by Section A-56 (D) of the Coral Gables “Zoning Code.”
- 2) Grant a variance to allow the proposed single-family residence to have a rear yard area ground coverage for accessory uses and structures of (7.4%), one thousand, ninety square feet (1,090') vs. a maximum rear yard area ground coverage for accessory uses and structures of (5%), seven hundred, thirty-three square feet (733') shall be permitted, as allowed by Section A-56 (D) of the Coral Gables “Zoning Code.”

Mayor Slesnick: We have Item E-1. This is an appeal to the Coral Gables City Commission from a decision of the Board of Adjustment. Are you ready Mr. Guilford? Mr. Guilford how long do you believe your case will take?

Mr. Guilford: Excuse me?

Mayor Slesnick: How long do you believe it will take?

Mr. Guilford: Probably about twenty minutes, right around there, we have a lot of speakers.

Mayor Slesnick: You intend to give us the background?

Mr. Guilford: Yes.

Mayor Slesnick: Mr. Guilford.

Mr. Guilford: Good morning Mr. Mayor, Commissioners, for the record my name is Zeke Guilford with offices at 2222 Ponce de Leon Boulevard. It gives me great pleasure to be here

today representing Jeff and Kathy Bartel, the owners of the property located at 4995 Hammock Lake Drive.

Mayor Slesnick: Mr. Guilford.

Mr. Guilford: Yes sir.

Mayor Slesnick: Before I'll forget, if you'll stop right there. All of those of you who intend to speak today in this quasi-judicial proceeding, if you will stand and raise your right hand, the Clerk will swear you in.

City Clerk Foeman: Do you solemnly swear or affirm that the statements you are about to make here today will be the truth and nothing but the truth?

All: We do.

Mr. Guilford: We are here on appeal of two variances relative to lot coverage. As a means of background, this property, actually this subdivision Hammock Lake was incorporated or annexed into the City of Coral Gables in 1996. At that time what you will hear from a member of the homeowners association, Mr. Ogden, is the efforts they went through in order to create a site specific for the City of Coral Gables, and what the intent of that site specific is. The Bartels bought the property in 2005, they originally applied for the variances in 2006, staff recommended approval of those variances, and those variances were granted. Due to reasons that Mr. Bartel will tell you, the house was not constructed and the variances lapsed. He reapplied for essentially the same exact variances down to the square footage with a nominal change and staff recommended denial of those variances and they were denied by the Board of Adjustment. What I'd like to do right now is have Mr. Bartel come forward and say a few words.

Mr. Bartel: Thank you Mr. Mayor, Mr. Vice Mayor, members of the Commission, my name is Jeff Bartel, our home address is 6909 Mindello Street here in Coral Gables, lifetime resident of the community and as Mr. Guilford has already said, we engaged Mr. Hernandez, George Hernandez, who I know all of you know, he's done work for the Coral Gables Museum among other engagements for the City, to design our dream home here in the City, and in 2005 we designed what we thought was a wonderful home, and made sure that it met all of the site specifics we believed expectations of the City as well as its neighborhood. We actually consulted with neighbors on the design of the house to see what the neighbors would like, and we looked at the topography of the site with the special notes that are on the site, and in other specific matters dealing with the neighborhood, and George designed a wonderful home for us, it quite frankly did have two variances that Mr. Guilford has indicated. We came in front of the Board of

Adjustment in 2006 with a staff recommendation of approval and were unanimously granted that approval at that time, and we moved forward with the building permit processes. We put together our construction documents, came into the City of Coral Gables and got approval from every single section of the City including Zoning in 2006 and 2007, ultimately. At the end of 2007 just before we are about to pull building permit with the only thing out there was to get DERM to give us approval, I was called by our CEO at the time and was given a promotion and was told I head my family up to Juno Beach, Florida. So we put everything on hold; we stopped the work with Mr. Hernandez, we stopped the house, we told all of our friends, some of you may have even gotten a note, we are moving to Juno Beach. This Miami boy was about to move. We spent the next two years time, obviously the variance lapsed, hemming and hawing on what we were going to do, and finally two years ago, we said we are not going to move from the City where my daughter goes to school, we are not going to move from the City where we go to Fairchild Tropical Garden, where my daughter every single Friday goes to gymnastics at the Coral Gables Youth Center, we love the Gables too much; and we came back to George and said, we are going to redesign, let's take a look at this house, let's make it a little bit smaller quite frankly, the economy is not as good as it was, we don't have enough money as we did, and we shrunk the house. The house proper is over 2,000 less than it was in 2006. But as a consequence to that shrinkage Mr. Hernandez will attest to, we would have had a dangling porch that would have gone nowhere, it would have been the equivalent of painting three-quarters of your room and then stopping; and so a porch was extended around three-quarters of the house, and that is the only reason why our lot area coverage variance today, at least on paper looks like its larger than it was in 2006. The real lot area coverage we have is less than it was in 2006 when the City unanimously approved it. So we came in front of the City this time round thinking, I hate using the word "no-brainer," recognizing nothing in the political world is a "no-brainer," and we came in front of the City of Coral Gables Board of Adjustment and this time staff respectfully recommended denial, and others will get into the reasons why or why not; and ultimately we came in front of the Board of Adjustment and a motion was made to approve the application, it was seconded, but ultimately we lost on that motion and we were denied. So we are before you today really hat in hand quite frankly, my wife and I designed our dream house, it was approved, and the strangest thing Commissioners and the reason why I have all these people down here is really an issue of principle. If we had built that house we would have just celebrated our second Christmas in that house; it would have been a larger house than the house you have before you now; it would have had a greater rear lot area of coverage than the house we have now. We would have been in that house vested every right, or if we'd have done what other folks do, if we pulled building permit and just sort of moved DERM around and called for inspection and failed those inspections for the last two years and done nothing, we also could have been there and never had to come in front of the City of Coral Gables. So for us in great frankness, it's a matter of both principle and fundamental fairness as well as the ability to rely on what the City did

before. We greatly appreciate your consideration and I'm sorry quite frankly to have to take up any of your time on this. Thank you very much for your time.

Commissioner Anderson: Thank you.

Mr. Guilford: Mr. Mayor what I'd like to do is just take a couple of minutes and I'm going to have George Hernandez the Architect come up, but I just want to talk about the specific variances. What we are requesting today is for the principal building to have lot area coverage of 22.5 percent versus 15 percent. We are also asking, which is kind of unique, to have a rear area coverage, rear yard area coverage, which we really do not have in the City of Coral Gables, we have additional lot coverage for auxiliary uses, but we really don't have this particular section of the Code in the City of Coral Gables. But what we are actually asking today is a 7.5 lot area coverage, rear lot area coverage versus 5 percent, and the reason that it's really unique is, because actually in 2006 we were only asking for 6 percent versus 5 percent. But yet, today we are over a hundred square feet less, so how do you have less square footage, but yet the percentage has increased, and that is one of the most difficult things that this application has because you don't have a consistency in the enforcement or the regulations of the Code; and what I'm going to do at this point, I'm going to have Mr. Hernandez actually talk about the land, the difficulty, the uniqueness of this property, the uniqueness of the neighborhood, and also the difference graphically of the two applications before you.

Mr. Hernandez: Good morning members of the Commission, George Hernandez, 337 Palermo Avenue, resident of Coral Gables for 24 years with a business in the City, and a Professor at the University of Miami School of Architecture. I've served the City over the last quarter century on numerous Boards and I need to thank many of you for appointing me to those Boards. I am pleased to be here and I hope that the outcome is what Mr. Bartel wishes it to be. I'd like to go just briefly and discuss the matters having to do with architecture and design. As Mr. Guilford stated there are two variances before you, one of them has to do with the rear yard area, and the other one has to do with the footprint, particularly connected to the issue of porches. As you've already heard, I have designed a house for this lot two times, one in '06, and one in 2010. I have done so for Jeff and Kathy Bartel, two times under the same Code, word, sentence, and paragraph, and the two requests made in '06 remain materially the same as the two requests made now in 2010. I'd like to cover the one having to do with the rear yard are first. The Code allows 5 percent of the rear yard area for structures in the rear yard; it defines structures as things such as jacuzzis or swimming pools, gazebos or trellises. We are asking for 1,090 square feet in excess of that 5 percent, as you just heard we had in '06 ask for 1,197 square feet in excess of that 5 percent. We were granted 1,197 square feet, but not the 1,090 square feet. I would like to just point, if I may, to the site plan which shows the house, I might need to get a mike – is this on?- this is on. So this is the site plan of the new proposal for the house. I also need to state for

the record there are no setback variances, no height variances, no other variances other than the two which we are discussing today, which we are also discussing '06. The area of the rear yard what you see here, has only two structures in it; one jacuzzi and one swimming pool, both a jacuzzi and a swimming pool are surface features, they do not stick up above from the ground like a trellis or a cabana would, they would not be visible by any neighbor behind them, and because they are on the lake the closest neighbor which is the house in the middle of the lake, the isthmus in the middle of the lake, that resident is here to testify, is either 460 feet away from the rear yard, or the next closest neighbor is over 1,000 square feet away from the rear yard. Moreover since that calculation is based on a percentage of the area of the rear yard, we have punished our self, we have lessened the space of the rear yard because we pulled the house further away from the front setback, and on this drawing the street is on the top of the drawing. You can see the reason for that, is that there is a specimen oak squarely on the line of the setback. The only way to avoid the specimen oak would have been to pull back from it, which in essence shortened the area of our rear yard. So in the general purpose and provisions of the Code, under F, it says, as one of the intensions of the Code to provide for the preservation and protection of flora and fauna, more specifically the City's lush tree canopy. One of the reasons that we are asking for this variance is because we are trying to provide for the protection of flora and fauna, specifically the tree canopy, that one oak. And I think that covers my statement having to do with the variance regarding the rear lot area. Like to take the second variance now, if I may, it will be a little bit lengthier, but not much. It has to do with the footprint of the house and the issue of porches. I'd like to state for the record that the house in terms of FAR, and let's agree that FAR is the leading measure of the volume and mass of a house in accordance to our Code, and I say volume and mass because since in Coral Gables the floor area ratio is counted two times for double height spaces, which I think is a very good aspect of our Code, we ensure that we don't only measure the horizontal floor, but we take into account the vertical dimension of double height spaces. So taking that into account this house as presented to you today is 2,321 square feet under the maximum FAR provided or allowed for this property, when it was presented to you in '06. The house today is 11,014 square feet, in '06 it was 12,788. So it is 2,321 square feet under the FAR ceiling. Many of the houses in the neighborhood have been built to the maximum of that FAR ceiling. So there is a 19.5 percent diminishment of the maximum FAR and that controls the volume and the massing of the house. Now Hammock Lake is a very unique area, you all know that, it was annexed into the City, and your Code make statements having to do with the architectural character of that neighborhood, and I will read briefly from that Code. Under Architectural Type in Section A-56 of Hammock Lakes under your Code it says, "*Architectural Type – The primary architectural feature of Hammock Lakes is the landscape. Homes are built in the classical contemporary style, however, there are homes built in other classical styles.*" The Bartels came to me and asked me to design for them a shingle style house. It's a particular style of architecture, which is unique to American history, it derives from English influences, more notably the Queen Ann style, but it was refashioned and remade and

coined, the term was coined by Vincent Scully in his book, The American Stick and Shingle Style, as a uniquely American type of architecture. It started to develop in the later nineteenth century in New England, and most importantly it coincided with the development of an American identity and character which had to do with the relationship between the individual society and the land. It occurred also in other fields, for example in the field of painting, the Great American Landscape painting, like the Hudson River School, or the Ashton School; in the fields of literature, the work of Wordsworth and Thoreau were also part of this movement. In the fields of architecture, it had to do of course with the American Shingle Style and later developments by Luis Sullivan and even Franklin Wright. In terms of our national consciousness, it coincided with the development of our national parks system. So there can be no more classical American style that is associated with an American view of landscape than the American Shingle Style, and I have some examples before you. By the way, I'd like to call your attention to three different photographs of houses in the American Shingle Style, all of them feature very predominantly the role and aspect under the porch in the making of that architecture; and I think it's no coincidence that the first house, our first house that gave our City its name is actually an American Shingle Style house. Althea Merrick was an artist, she came from a family of artists, she lived in New England, she would have been in touch with the aesthetic currents of the times, and when she designed the house for her family in this place she designed it in the American Shingle Style, of course she built it out of rubble coral, but it's a shingle style house, this is not Mediterranean, there are no arches and the porches are the prevailing aspect of this house. If these porches were to be cut off or built half way you could see what an effect that would have on the design. So it's the porches that staff recognized in '06, and that we are asking again for you all to consider, that really makes this style of architecture work. Let me please now go into the numbers, the specifics of the math, if I can.

Mayor Slesnick: Mr. Guilford you have about 15 more minutes.

Mr. Hernandez: Yes, I could be done in about three actually. This is a chart that I believe you have before you. I think the most significant aspect of the chart is the lowest line, 13,335 square feet is what is allowed by right; the Bartels are building 11,014 square feet; and if you look at the second and third line of the chart you will see that while the percentage of lot coverage assigned to portis a small amount, 300 square feet, that the portion of the house which is air conditioned on the first floor has actually shrank. So the solid impenetrable opaque portion of this house is smaller. It's smaller than it was in '06, and the FAR is significantly smaller than it was in '06. Now I would just like to read one last thing, if I may. Again, from the general purpose of the Code, Section G says, *"That the purpose of the City Code is to provide for efficiency and economy in the process of stable and orderly development for the appropriate and best use of land in accordance with the standards established by the will of the residence while protecting property values."* I think this case exemplifies that. Thank you.

Mayor Slesnick: Thank you Mr. Hernandez.

Mr. Guilford: Mr. Mayor what I'd like to do at this time, there are several neighbors here who would like to speak; what I'd like to do is have Mr. Ogden come up and speak first; he was part of this association and part of the annexation, I want to say movement for lack of a better word, but he can explain to you the nuances of the site specifics and how this came about.

Mayor Slesnick: Before we get there, I do have one question for Mr. Hernandez. The style you are speaking of is shingle?

Mr. Hernandez: Shingle.

Mayor Slesnick: Why is the name shingle associated with...

Mr. Hernandez: Because the house is clad roof and walls with cedar shingles with that material.

Mr. Ogden: Bill Ogden, 5590 Hammock Drive. I'll try to shorten this up, if I can. In 1996 our neighborhood was forced by the County to make a decision whether to join Pinecrest or join Coral Gables. We formed a committee to investigate and specifically to support the efforts to get into Coral Gables. I was tasked with trying to figure out the zoning issues; I met with then Zoning Director and found out there was no estate zoning code in Coral Gables, which meant that we would be viewed as the typical lot in Coral Gables. So, I retained an architect, we studied the County Code, the City Code, and we combined those two Codes to come up with the site specific regulations which were subsequently passed by the Commission. I bring this up because I feel it gives me some credibility in terms of understanding why we came up with these specific zoning guidelines. I will tell you at the time we did that, we had limited resources and limited expertise, and we did the best job we could trying to nail these two codes together. But we did talk about what it would be like if we could offer bonuses for porches, for minimizing second floor space, but we just couldn't really come up with a model or a formula that would fit, so we went with what we had; and if you might remember in 2002, I think you all were here, this came up again, and we had numerous discussions at the Commission, with staff, and with the neighborhood about modifying the Code, but again in 2002 we were still unable to come up with a formula that would address all the issues; and therefore today we have the Code that we have, and I want to say that I reviewed the applicant's plans and I will tell you that if we had the Code that we would like to have, those plans would meet Code and would not require a variance. Thank you.

Ms. Touzet: Hello, I am Lydia Touzet, and I reside at 4900 Lake Lane, and I am the person whose home is in the center of the lake who looks directly at the Bartel's lot. I was born and raised in Cape Cod, Massachusetts, and I have a home in South Hampton, New York; I am thrilled with this home. It is traditional, I love the porches and I have a direct view. So for me and my family, we just love this home. I think George Hernandez did a spectacular job. Coming from the northeast I see a lot of these Mediterranean barrel-type tile roof homes, I'm not going to be looking at that, and I'm thrilled. I just hope that this passes for them, I think this is going to enhance our neighborhood; I don't understand the variances and the codes and all the City of Coral Gables. I'm here to tell you they are a wonderful family, it is an absolutely beautiful home and we are thrilled, and I really don't see many of the other neighbors objecting to this. So I don't understand why it was denied and I'm hopeful today you'll change that. So thank you.

Mr. Guilford: As John Strum comes up; I do want to point out that we do have approximately 20 letters in support of this application as well as a letter from the homeowners association in support of this application as well. Every neighbor that actually abuts this house has signed a letter in support of this application.

Commissioner Anderson: Do they all abut?

Mr. Guilford: Excuse me?

Commissioner Anderson: Do they all abut?

Mr. Guilford: Well there are over 20, so there are some....

Commissioner Anderson: Do you know, since you come before us, what's the notification range as far as feet?

Mr. Guilford: Excuse me?

Commissioner Anderson: Does staff....is it 1,000 square feet for notification?

Commissioner Cabrera: What is it?- 5 or 1,000?

Mr. Guilford: 5.

Commissioner Cabrera: 500?

Mr. Guilford: No, no. I'm sorry, what was the question?

Commissioner Anderson: The range of notification – there is a whole community.

Mr. Guilford: Oh 1,000 feet, its 1,000 feet.

Commissioner Anderson: OK.

Ms. Strum: Good morning. My name is Joellen Strum, and I live at 5105 Hammock Park Drive, Hammock Lake subdivision. I'm here on behalf of my family and others in the neighborhood, whose support, strong support for this beautiful, beautiful house and the variance. The Bartels have done everything, they've done it not only once, but they've done it twice. They hired a great architect, they consulted all of their neighbors, everybody received a letter, and they got their approval once. So we would like them to have it again, to do the right thing to give it back to them. The house is proportionate if you look at other homes in the Hammock Lake neighborhood and also in Snapper Creek Lakes. We have owned this home for twelve years, I cannot tell you how many letters we've gotten for variances, and they granted many, many, many of these variances exceeding 15 percent under the Coral Gables Zoning Code and prior to the annexation, the Miami-Dade County Zoning Code. There is no precedent being set here; the Bartels property is unique, the topography, the location, oak trees on the property. So we are just here to support them. That's it. We'd like you to do what you did for them for years ago, it's a gorgeous house.

Commissioner Cabrera: We didn't do that.

Commissioner Anderson: We didn't do that.

Ms. Strum: Oh, you didn't, somebody else did?

Commissioner Cabrera: Well somebody below the Commission did it.

Ms. Strum: OK.

Commissioner Anderson: Board of Adjustment.

Commissioner Cabrera: Staff, staff and/or a quasi-judicial board.

Ms. Strum: But it was done, it was approved.

Commissioner Cabrera: Not by us. Not by me.

Ms. Strum: Not by you, by other people, but the City of Coral Gables?

Commissioner Anderson: The City of Coral Gables, not by here.

Ms. Strum: It was approved by the City of Coral Gables.

Commissioner Cabrera: Yes counselor.

Ms. Strum: Anyway, it's only going to approve all the properties for all of us, so we are in support, and you don't have a letter from me, I was too lax, so I came to speak instead, so I'm 21.

Mayor Slesnick: Thank you.

Mr. Massirman: Good morning, my name is Jay Massirman, I live at 5275 Hammock Drive, I don't have to reference my notes, that I actually remember where I live. We love our home; we love the City of Coral Gables. I'd like to make a few comments on the Bartel application. One, my understanding is the application is exactly what my neighbors intended with the site specific regulations for Hammock Lakes when the neighborhood was annexed in 1996. We think the porches are a wonderful thing, especially with our lakes; we live the next lake over, but I wanted to show our support, a fellow neighborhood. We have no issue with the rear lot variance, we love the fact that they moved back the house from the minimum setback and that should be commended by the City and not punished. Please do not punish the neighborhood residents, please protect and respect the will of the residents and the citizens. My understanding is if this were another neighborhood in the City, the applicant would not have had to seek a variance; in fact 35 percent of lot area coverage permitted Citywide with nearly twice the ground coverage they are asking for here. It's only because we are in the Hammock Lake subdivision that we the residents chose to create site specific standards. We the residents, the citizens are petitioning you to grant this variance because we believe the applicant meets the letter and the spirit of the law, same law that relied upon the City applied four years ago when the City granted some variances. Staff has argued that the application is different from that of four years ago, because of minor design changes. I want to point out that because of rear lot variance the applicant is seeking is actually smaller than it was four years ago, the other question is, why is the City denying what it granted under the same applicable laws; and is the City telling us that the reason to deny the ground coverage variance is because the square footage of the house is smaller, but the design is nicer because they wrapped a porch around the house, that's my question. Please right the wrong inflicted to our neighborhood by the Board of Adjustment last month; the Board obviously

rubberstamped staff's recommendation, failed to do its duty to respect the spirit and intent of the Zoning Code. Thank you Mayor and Commissioners.

Mayor Slesnick: Thank you.

Mr. Guilford: Mr. Mayor we have four experts who are going to testify now in order to try to save some time, I can say who they are and we can go ahead and have them classified as experts, or I can go through and have each one give their experience. How would you like it?

Mr. Guilford: We have Mario Garcia-Serra, Lucia Dougherty, Laura Russo, and Tucker Gibbs.

Commissioner Anderson: Wow!

Mayor Slesnick: I think they are all known to the Commission.

Commissioner Withers: We know who they are.

Mr. Guilford: I know Laura has only been here once or twice (Laughter).

Mayor Slesnick: But I would like to say for the record that without objection that we accept their credentials as experts in this area.

Mr. Guilford: Thank you very much. Mario Garcia-Serra, please.

Mr. Garcia-Serra: Good morning Mayor, Commissioners.

Mr. Guilford: Mario have you had a chance to review the record before you regarding this application?

Mr. Garcia-Serra: Yes, I've reviewed the transcript of the Board of Adjustment hearing of December 2010, as well as the transcript of the Board of Adjustment hearing in 2006.

Mr. Guilford: Can you take a moment and talk about your opinion regarding the criteria and how that applies here as well as 2006, how it would apply here.

Mayor Slesnick: Let me just explain one thing because we don't go through this often, and I just want to make sure people understand that you are doing this for a specific reason. This is a quasi-judicial hearing and the counselor is putting the record together for in case this is reviewed by the courts.

Commissioner Cabrera: Your Honor, I object to the line of questioning of counselor.

(Laughter)

Commissioner Cabrera: I request a rehearing on this matter before the Florida Supreme Court.

(Laughter)

Commissioner Anderson: But I like hearing Mario....

Commissioner Cabrera: I really don't, I just wanted to do that because I thought it was kind of cool. I would suggest Mr. Guilford that you send those to the Florida Supreme Court for review and at the same time provide us with your own opinion of the pickup truck ordinance (Laughter).

Mr. Garcia-Serra: It's a good thing I'm charging on an hourly basis (Laughter). I have a short statement actually which I prepared based on the criteria of the variance and hardship in particular, which I'll read into the record, it's fairly brief. The same hardship justifying the granting of a variance was established in both in the 2006 and 2010 Board of Adjustment hearings. That hardship is the fact that the Hammock Lake site specific regulations mandate that new homes adhere to the architectural and landscaping standards characteristic of the existing neighborhood. In Hammock Lake a few non-Mediterranean architectural styles are prevalent, including the American Shingle Style selected by the Bartels, which to a great extent is characterized by a large size wrap-around porches as was established by the testimony of Mr. Hernandez, the project architect. Unfortunately, the Zoning Code counts porch area as part of livable floor area, thereby penalizing Hammock Lake homeowners for building the sort of homes which they are mandated to build by the site specific regulations. Both variances being requested are consequences of the fact that open porches are counted as floor area. If we remove the porches there would be no need for either variance, but you also would not have a home which is architecturally compatible with the Hammock Lake neighborhood. Same is true with regard to the property's landscaping. The site specific regulations state that Hammock Lake landscaping is the neighborhood's primary architectural feature and that all new homes must be compatible with it. Again, the Bartels have pushed their home as far as they can considering the steep slope of the property as it approaches the lake, so as to increase the size of the front yard and preserve the natural landscaping, including one specimen tree in particular, which is located right at the 50 foot setback line, which in turn decreases the size of the rear yard necessitating the rear yard lot variance. The Code requires generous country estate-type landscaping in this area, and since most of the existing landscaping is located in the front of the property the house has been pushed back making the rear yard smaller, and since open porches are counted as floor area the rear yard

lot maximum is exceeded, thereby requiring a variance. The Bartels have designed a home which complies with the Hammock Lake site specific regulations and works with the unique existing landscaping and topography of their property. The City's regulations and how they apply to this particular property with its unique characteristics combined to create a hardship justifying the requested variances. The Board of Adjustment recognizes in 2006, but it appears that the 2010 hearing became side-tracked over discussion as to whether the 2006 approval bound the Board to approve the 2010 application and what the differences were between the 2006 and 2010 proposals. What was important was whether the application complied with the relevant standards. In my opinion, both the 2006 and 2010 applications which were subject to the same exact variance standards and were based on substantially the same design, complied and should have been approved. The slight differences between the two designs are not sufficient to justify a different result.

Mayor Slesnick: Thank you.

Mr. Guilford: Thank you. Laura Russo. Good morning.

Ms. Russo: Good morning Mr. Guilford.

Mr. Guilford: I'm going to ask you the same question. Have you had a chance to review all the transcripts and record regarding this application?

Ms. Russo: Yes, I have.

Mr. Guilford: I'm going to ask obviously a stupid question, but you are practicing in the City of Coral Gables in 2006?

Ms. Russo: Yes, I was.

Mr. Guilford: And you are familiar with the criteria set forth for the granting of a variance?

Ms. Russo: Yes, I am, and I was back then.

Mr. Guilford: Excuse me?

Ms. Russo: I was back then.

Mr. Guilford: In 2010 when this application came before the Board of Adjustment had that criteria changed at all?

Ms. Russo: No, it has not.

Mr. Guilford: In your opinion, is the change in the application, I believe of adding the balcony of approximately 270 square feet, a substantial change?

Ms. Russo: The difference between the two designs and the two variances is a nuance change, its insignificant, its deminimus.

Mr. Guilford: One last question. In your opinion, does the minor change, the nuance change cause a change in the recommendation from recommendation of approval to denial?

Ms. Russo: There should not have been any change in the recommendation for denial; there was nothing in the record, the record is devoid of any reason why? The evidence that was submitted in 2006 and the evidence that was submitted today were any different, and so there is no differentiation in the Board's determination or in staff's determination as to why there should be a different result.

Mr. Guilford: I'm sorry, one last question. Because it talks in the transcript of 2010 that it's a new day, it's a new administration, and that's reasonable change. Is a new administration one of the criteria for a hardship?

Ms. Russo: No, it is not one of the established criteria in the Zoning...

Commissioner Anderson: I think that was actually just a turn of a phrase, I don't think that was a legal description.

Mr. Guilford: Mr. Tucker Gibbs, please.

Mr. Gibbs: Good morning.

Mr. Guilford: Tucker same question as well. Have you had a chance to review the transcript regarding this application?

Mr. Gibbs: Yes, I've read the transcript of 2010 transcript, staff recommendation, 2006 transcript, and staff recommendation and everything else that I could find in the file.

Mr. Guilford: OK. In your opinion, is the 2006 staff recommendation considered competent substantial evidence.

Mr. Gibbs: Yes, it is.

Mr. Guilford: Do you have any opinion regarding that 2006 staff recommendation?

Mr. Gibbs: Yes, it is substantial competent evidence as it relates to 2010 for the reasons that Mr. Russo and Mr. Garcia-Serra talked about. In particular what I'd like to do if I could, is I want to read you what staff said at the hearing which echoed and elaborated on what was said in the staff recommendation in 2006. In discussing the ordinance, the staff specifically talked about the character of the neighborhood and said it was a different character, it wasn't going to be all Mediterranean, and staff specially addressed that issue. And they said to implement this, it said, in order to be able to execute, this is what staff person said at the hearing, in order to be able to execute that in this case, in other words the ordinance, they need this lot coverage variance for the porches and the variance they are asking for is not to give them additional lot coverage for the house, but to allow them not to count the porches in the lot coverage, which is the same thing they are asking for here. So staff says, so we are recommending approval of the applicant's proposal, we think it is a very good case considering the history of this neighborhood and this property, and the way that the home was designed to fit into this neighborhood, that's exactly what we want to do. The staff also talked about trees. If you've ever been down in this beautiful neighborhood with lots of mature trees, and one of the other things they are doing is working around some of the existing trees. Most of oaks are being preserved in place. And finally, as the question was asked in 2006 about the lot coverage, do we typically look at porches and coverage area? Staff responded, yes we do, but in other parts of the City, we have a 35 percent lot coverage requirement, in this part of the City we only have a 15 percent lot coverage requirement. The problem becomes, and we wanted to try to address this, but we weren't able to get consensus, which was what was testified today by Mr. Ogden, but we weren't able to get consensus, so we decided to do it on a case-by-case basis as these things come up, meaning these lot coverage issues in this neighborhood. When the County calculated the 15 percent lot coverage, we were not sure how they did it, in some cases we were told they calculated to the middle of the street, in some cases they didn't, in some cases they counted swimming pools on the lot coverage, in some they didn't and in some cases they counted screen enclosures, and in some they didn't. So you have a lot of different things going on here-there. When we look at this issue we really look at the neighborhood context and clearly the house itself is within that requirement, so we feel that this is an appropriate request. That is competent and substantial evidence, these facts have not changed, these facts of the neighborhood; and that is why staff recommended approval of the variance back in 2006, and that's competent and substantial evidence as to the variance application in 2010.

Mr. Guilford: Thank you very much.

Mr. Tucker: Thank you.

Mr. Guilford: The last expert we have is Lucia.

Ms. Dougherty: Good morning Mr. Mayor, members of the Board-Commission.

Mr. Guilford: Lucia again, did you have a chance to review the application before you and the transcripts?

Ms. Dougherty: I have.

Mr. Guilford: Have you formed an opinion regarding this application?

Ms. Dougherty: I have.

Mr. Guilford: Can you please express that to the Commission.

Ms. Dougherty: Yes. I agree with the former speakers and that this application meets all the criteria for the granting of the variance. A classic textbook variance case is one in which you have a triangular shaped lot and you don't want to meet or have a triangular shaped building and therefore you ask for a variance. Well in this case we have a unique situation, a unique lot, that is not, is not self, and a hardship that is not self-created. We have topography, we have a specimen tree, and we have an architectural mandate from the Code that requires a certain kind of architecture. I think that all mitigates and all creates a non-self created hardship that is unique to this property. But there is something significant, and Tucker just read the transcript from the 2006 hearing, and in that case your Zoning Director testified that when the Code was adopted in 1996, they didn't know whether or not Dade County included porches, they didn't know if Dade County included swimming pools, and they didn't know whether or not it was counted to the middle of the street. So what they decided to do is to make each one of these cases a case-by-case basis or just make a decision on a case-by-case basis. Well how do you do that? - you do that in this variance mechanism. So rather than address the issue they decided we'd rather have each case come before you, and there is no other way to do it other than this variance mechanism; and there was a recognition that the 15 percent lot coverage was very stringent compared to the rest of Coral Gables, and that the testimony today by Mr. Ogden confirms that porches were never intended to be included in the lot coverage methodology or calculation. So now to view the law is the law, and we are not going to have any flexibility today is contrary to what you all decided to do when you adopted this Code in 1996. We cannot have the same set of circumstances and have a different result. We have exactly the same applicant, the same property, the same

variances, the same law, the same architect, the same architecture, with the exception of a smaller house, and a little slightly larger porch. That's not to say that individuals on your staff can't have a different opinion, that's not the case; but in this case however, you as the governing body have to do substantial justice and make sure that there are predictability and consistency and interpretation in the application of the law. Conversely your citizens, the Bartels, have a right to rely on the consistency of the application of the law. We have the same or similar circumstances, the facts should yield the same results. Coral Gables has a reputation, and I don't mean to pander to you, you have reputation of being a well run, efficient, and professional government, that reputation is driven by the fact that your citizens have a right to rely and know that you are going to treat them fairly under the same circumstances. I hope you support this modest request, which will result in a consistent application of the law.

Mayor Slesnick: Thank you very much.

Mr. Guilford: Mr. Mayor, I'm just going to take a couple more minutes and I just want to run through a couple things and kind of wrap it up. You know, we heard Mr. Ogden, what we had here is a situation of a Zoning Code coming from Dade County coming to the City of Coral Gables and the resources that the Homeowners Association had to put together a site specific, and the difficulties in doing that, and the understanding that there would be a case-by-case study and basis in which these matters would come before the City of Coral Gables. Just for the record, I've looked up in the Dade County Code and there is no definition of lot coverage. So when staff said in 2006, that sometimes they include it, sometimes they don't, that in fact is correct because there is no, in the definition section, a definition of lot coverage. What you have in the transcript before you is actually what the City did, and I actually pointed out earlier to you is, you essentially have a lot coverage which comes from the County that is being applied by the City of Coral Gables rules, instead of going to the center line and instead of counting certain things, instead of not counting certain things, they are actually using the Coral Gables standard of what is in the property line only. You know, several years ago the City of Coral Gables redid their Zoning Code, what we did not tackle was the site specifics, those were in fact supposed to come back at a later date and be looked at and to be integrated into our Zoning Code to make sure they in fact met appropriately. I think this is an example here of where they need to be looked at to make sure that they integrate with our Zoning Code. You know, I had an opportunity to look at similar subdivisions, Gables Estates, Hammock Oaks, Old Cutler Bay; each one of those uses the 35% lot coverage area. So in this case you would essentially need no variances, we would not be here. Also, in the County, if they were still in Dade County, they would not have to go for a variance per say. What they have is under Section 33-36.1 is an administrative zoning process, and essentially if you get your neighbors that abut the property to sign off, the County can administratively approve that variance. Let me take a couple minutes just to talk about the 2010 transcript and hearing for a minute. The staff report says that there were bedrooms added, bath

and a closet; in fact these were actually taken out. There is no mention of the 2006 staff report; there is no refuting of that staff report. You heard from Mrs. Russo the criteria have not changed. Also want to point out in the transcript it states that there had been no variances in excess of the 15 percent, even if you did it the way the County did it. That is not correct, we have the case number. Mr. Mayor, Commissioners frankly this house complies with all the requirements of the City of Coral Gables. You heard from Mr. Hernandez that we comply with the setbacks; we have a house that's 23-2,400 square feet less than what it could be. You've heard from Mr. Bartel who has been in this process a long time, who really just wants to build his dream home. You've heard from Mr. Ogden, the Homeowners Association that they have no objection to this application....

Commissioner Anderson: Did the homeowners vote on it?

Mr. Guilford: The homeowners...you have a letter in your package where the homeowners signed off on this application.

Commissioner Anderson: The homeowners or the Homeowners Association?

Mr. Guilford: The Homeowners Association.

Commissioner Anderson: Association.

Mr. Guilford: Correct. You have neighbors who are going to have to look at this house everyday and be part of this neighborhood who have no objections. You have heard from the experts who have given legal opinions which all support the granting of these variances. Mr. Mayor, Commissioners we believe we have provided compelling evidence to overturn the decision of the Board of Adjustment, and we would ask that you do so. We sincerely appreciate the time you have given us and we would sincerely appreciate your vote. Thank you very much.

Mayor Slesnick: Yes – we have a question.

Commissioner Cabrera: I just have one question. I promise not to ask any others. If this application were approved today by this body, governing body, would you and the rest of your experts be willing to commit that you would not bring this item to us as a precedent setting item on any future application in the City of Coral Gables?- and that's for all of you.

Mr. Guilford: Commissioner Cabrera, number one, I cannot make that promise, so....

Commissioner Cabrera: OK, that's all I wanted to know. OK. That's all I have.

Mayor Slesnick: Thank you Mr. Cabrera.

Commissioner Withers: Can I ask Zeke a quick question? What is the process with the Homeowners Association within Hammock Lakes? I know what it is at Gables Estates.

Mr. Guilford: I'm going to have.....can you come up....

Commissioner Withers: I guess what I'm asking, is there like an official vote, do they post it? What's the process you go through getting consensus with the homeowners?

Mr. Ogden: Many of you know there are several homeowners associations within our community. I'm President of Hammock Lakes Banyan Drive Homeowners Association, there is also a separate Banyan Drive Homeowners, there is also a separate Hammock Lakes. We did not take an official vote on this, I was asked to speak today. I did poll the other officers, nobody has any objections, we didn't come today with a formal approval, support, but we certainly have no objections whatsoever, and I can speak on behalf of the Homeowners Association in that respect.

Commissioner Withers: Is it safe to say, and I know this is strictly your opinion, that the majority or the lion share of the homeowners know about this home, and about this property, and about this.

Mr. Ogden: Absolutely. Mr. Bartel has not been shy in letting us know about it, and I would say that everybody is aware of this in the neighborhood. I have heard of no objections whatsoever.

Commissioner Withers: OK. Thank you.

Mayor Slesnick: Thank you.

Commissioner Withers: Mr. Mayor, can I ask staff one quick question?

Mayor Slesnick: Well the staff is going to make their presentation now. Are you ready for their presentation? Carmen?

Ms. Olazabal: Good morning.

Mayor Slesnick: Good morning. Are you prepared to go forward?

Ms. Olazabal: I'm sorry?

Mayor Slesnick: Are you prepared to go forward?

Ms. Olazabal: Yes.

Mayor Slesnick: OK. Well, if you'd introduce yourself.

Ms. Olazabal: Yes. Good morning Mayor and members of the Commission, I'm Carmen Olazabal and I'm the Building and Zoning Director.

Mayor Slesnick: And you wish to present a case?

Ms. Olazabal: I wish to present a case; I thought you had a question.

Commissioner Withers: I did...

Mayor Slesnick: I think you are going to present a case....

Commissioner Withers:....I did. In your presentation will you also cover how you rely on the previous municipality, Dade County, how you use their rules and regulations in determining how to govern a situation like this? How Dade County plays into this?- because I'm not quite sure how that's drawn in, that's what I wanted to make sure you pull in.

Ms. Olazabal: Yes. I will call Martha just to make sure that what I'm going to say is 100 percent correct, because I'm new to that incorporation.

Commissioner Withers: OK.

Ms. Olazabal: But basically the site specifics were mainly adopted as they were in Miami-Dade County, so they become part of our Zoning Code as they were written. When it comes to the 15 percent lot coverage, which is one of the items at stake, it doesn't seem like it was well defined in the Miami-Dade County, so we mainly go by the definition that is in the Zoning Code, which does not include the right-of-way. To clarify, even if you included the right-of-way this would be a variance above that 15 percent.

Commissioner Withers: OK.

Mayor Slesnick: Thank you. OK. Please proceed.

Ms. Olazabal: I guess you want the whole background?

Mayor Slesnick: No, all I think we need is for you to justify to us I think, why the change from 2006 to 2010, and then what is the basis of your, I mean, it's in the record, but if you'd like to put it...First of all let me say for the record that all of the documents that we have gathered together be they be transcripts, or the exhibits, everything is hereby officially included in the record of this case, and becomes part of the City record of this case. So your comments before the Board of Adjustment are already included, your rationale, your staff reports are all included. What further would you like to tell us? Martha?

Ms. Salazar-Blanco: If you allow me....

Mayor Slesnick: Martha Salazar-Blanco, Zoning Official.

Mayor Slesnick: Thank you.

Ms. Salazar-Blanco: If you would allow me, I would like to go through the standard of variances, which yes, it was included in part of the variance application, if you would allow me to go through them again?

Mayor Slesnick: Absolutely.

Ms. Salazar-Blanco: The Zoning staff recommended denial on this basis: that special conditions and circumstances do not exist which are peculiar to the land, structure or buildings involved, and which are not applicable to other lands, structures or buildings in the same zoning district. Again, there is nothing peculiar to the land, structures or buildings, so I want to make that clear, that this is a new residence as being proposed which needs to comply to the Zoning Code. Second, that special conditions and circumstances do result from the actions of the applicant. Again, the applicant is providing special conditions and special circumstances. This is a result of the actions of the applicant as this is a new residence. That granted the variance request will confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district. Again, granting these variances will come for special privilege by granting an excessive amount of square footage on lot coverage and on the rear yard coverage. Four – that literal interpretation of the provisions of these regulations would not deprive the applicant rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and would work unnecessary and undue hardship on the applicant. [Inaudible] right now is not aware of any other properties are commonly enjoying over 3,000 square feet of lot coverage or 357 square feet of rear yard coverage. That the variance granted is not the minimum variance that will make possible the reasonable use of the land,

buildings or structures. This is not a minimum variance request, as reminded this is a new residence that is being proposed and is over 3,058 square feet of lot coverage, and 357 square feet of rear yard coverage. Seven – that the granting of the variance will not be in harmony with the general intent and purpose of these regulations, and that such variances will not be injurious to the area involved or otherwise detrimental to the public welfare. Again, this residence is not in proportion or to scale of the site area. The architectural style is not a hardship by allowing porches and that would allow them to go over the square footage that is being proposed.

Mayor Slesnick: Thank you. Thank you.

Commissioner Cabrera: So these items, the seven that you read, how many of them did they meet?

Ms. Salazar-Blanco: They did not meet six out of seven.

Commissioner Cabrera: I'm sorry, I asked a question incorrectly, thank you for correcting me, they did not meet...so they met one.

Ms. Salazar-Blanco: They met one.

Commissioner Cabrera: OK.

Mayor Slesnick: Thank you.

Mr. Guilford: Mr. Mayor, if I could just say one thing, actually two things. Number one, as you heard Ms. Russo stated, as we all know, the criteria did not change, and in 2006 the same department, the Zoning Department, found that we met seven out of seven of those criteria, and actually explained their rationale of why they thought a hardship existed on this property. Also, as far as Commissioner Cabrera is concerned, your prior question is, as you all know every case has to be looked at as a case-by-case basis. So when you make that statement, we all have to look at it, I may bring it up, but you can say, "Mr. Guilford everything is on a case-by-case basis and that's the way we look at things here in the City of Coral Gables." So I just wanted to clarify that.

Commissioner Cabrera: I appreciate the scolding.

[Laughter]

Commissioner Cabrera: Because you are good at that, and you've been actually been better since the Country Club.

[Laughter]

Commissioner Cabrera: I don't like to be scolded, you know that, but I do appreciate your....I was just curious because you had all these power players here, all these fine, fine attorneys, and I mean that sincerely about all of you; you are in my opinion the best of the best, not to leave out the architect who I happen to think very highly of professionally and personally; I just thought I'd take a shot at it...

Mr. Guilford: Very good.

Commissioner Cabrera:...because I'm trying really hard to see your...

Mr. Guilford: And Commissioner Cabrera, I can tell you when I sat down the first time, several of the experts said, go ahead, we promise we won't do it; but I guess the truth of the matter is I am here a lot, and I can't say that I wouldn't do it just as a matter of what has happened before, and in fact I did it here earlier today when in fact staff in the 2010 transcript said, even including the Dade County way of the 15 percent, nothing has been approved, and in fact we have the case in fact that did occur.

Commissioner Cabrera: Thank you sir.

Mr. Guilford: Thank you.

Mayor Slesnick: OK. We will close this presentation then, and I would ask if the Commission if they have more questions, of course that's acceptable, if they have comments, that's acceptable, and also if I could have a motion of the first portion of the appeal; we'll have two motions on this appeal, the first one is a motion to grant a variance to allow a single family residence to have a lot coverage of 22.5 percent, 9,150 square feet, versus no single family residence shall occupy more than 15 percent, 6,900 square feet – 6,092 square feet correction, of the ground area the building site upon which the residence is erected as allowed by Section A-56 of the Coral Gables Zoning Code. The motion would be to grant the appeal of the Board of Adjustment which denied, and therefore we would grant the appeal overturning the Board. Do I have such a motion?

Commissioner Withers: I'll move that Mr. Mayor.

Mayor Slesnick: Been moved by Mr. Withers, do I have a second?

Vice Mayor Kerdyk: I'll second it.

Mayor Slesnick: Seconded by Mr. Kerdyk. Let me take the first shot here saying something about this before we vote. The words that I...well first of all I appreciate everyone's words and I always enjoy George's architectural lectures that we get for free here as part of his presentations, and I appreciated the citizens coming out, the neighbors to take their own time to help a neighbor, and as Mr. Cabrera has already said we've had probably one of the most talented line-ups of zoning land use attorneys in the State of Florida or maybe the United States sitting in front of us today. I also appreciate, by the way, the competency, the professionalism, and the opinions of our staff, and I think over the years they know that from my many statements and my votes, so that I hope goes without saying. However, today I think that some of the words that stand out to me in my consideration are predictability, consistency, fairness, and then the one of the last things that was read to us from the Code would my decision be detrimental to the people to the public welfare in this case?- and which I think granting the appeal would not be; granting the appeal would be reestablishing predictability, consistency, fairness, and it would not be detrimental to the public welfare. That's why I intend to support Mr. Withers motion.

Commissioner Cabrera: But can I just say....no, no, no, I'm going to stay quiet, I'm going to bite my tongue.

Mayor Slesnick: OK, hearing the dearth of silence, we'll ask the Clerk....

Commissioner Anderson: Actually, I'd like to share some thoughts.

Mayor Slesnick: Actually let me correct, dearth of silence, a dearth of noise – silence that was created. OK.

Commissioner Anderson: I have to be honest with you, I'm not going to be supporting this and I'll tell you why. In about 4-5 years ago, maybe even longer in Gables Estates they brought us a variance that was caused by the house being larger, and in this case it's not larger, but I do believe that in that case actually the Gables Estates Board turned it down when this particular Board voted for it 3-2. I think it's just a question for me of fairness; this whole community doesn't know about this particular variance, and when they decided it was 15 percent lot coverage at that time that was what they voted on, whether it was right or not. Now I believe that if they wanted to change it all, the community should come together and do it so we don't do zoning by variance. It's a beautiful home, it breaks my heart, but I do believe that a design change or a smaller footprint somewhere, so it wouldn't be such a hard variance, it's a 50 percent

variance – 50 percent, from 15 to 22 percent is 50 percent, whether you count it as a porch or you count it as floor area, it's still benefits that other people don't have in that community, a lot of people. I've driven by that neighborhood, all of that neighborhood; the Banyan Drive side, the Hammock Lakes II, the Hammock Lakes I, I'm familiar with all of that. The houses that were originally there were beautiful, small inside, and granted now-a-days you have to maximize it, but I believe you have to give everybody a playing field, and the playing field is that not everybody in this community knows about this variance, and this is for me, if it came to me as a whole, if the Planning Board took it up and said the community wants a change – great. But right now the majority of the community is put on an uneven playing field, and I won't say anymore, but I wish you the best, and I hope you live happily in your home.

Vice Mayor Kerdyk: I sort of look at it differently. I look at it as site specific decision. I happen to drive in and out of there sometimes with my wife imagining that we could live in that location there. Anyway, and I see some very big houses, I'm not going to go out and measure those houses, but I wouldn't doubt that they exceed the 15 percent threshold that we are talking about today. As it was pointed out in most of the City of Coral Gables, matter of fact in every place in the City of Coral Gables except for Snapper Creek, the lot coverage is 35 percent, which is substantially bigger, substantially bigger. The other thing that compels me to support this is the fact that the FAR is 2,300 square feet less than the FAR that was granted, or could be built on the property. The property has attractive outdoor porches, sort of scales back the overall largeness of the house, it's supported by all the homeowners, I haven't seen one objection here or one objection in the Board of Adjustment. I don't grant very many variances and don't go very often against staff's recommendation, and let me tell you, if I was staff, I'd probably do the exact same things because they are living in the box that they have to live in, and the criteria that they have to protect. But in this particular case, I think the Commission behooves itself to go ahead and right a wrong that's been in front of the Board of Adjustment, but anyway, so I will be supporting this application.

Mayor Slesnick: Any further comments? Mr. Clerk could you call the roll please?

Commissioner Cabrera: No.

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: No

Mayor Slesnick: Yes

(Vote: 3-2)

Mayor Slesnick: Now, I would ask for a motion on Item 2, which is to grant the appeal to overturn the Board of Adjustment's decision concerning a variance to allow the proposed single

family residence to have a rear yard area ground coverage for accessory uses and structures of 7.4 percent, 1,090 square feet versus a maximum rear area of ground coverage of accessory uses and structures of 5 percent, 733 square feet shall be permitted as allowed by Section A-56 (D) of the Coral Gables Zoning Code. So the motion is to grant the appeal thus overturning the Board of Adjustment's decision concerning that matter which I've just read. Do I have a motion?

Commissioner Withers: I'll move it.

Vice Mayor Kerdyk: Second.

Mayor Slesnick: Moved by Mr. Withers seconded by Mr. Kerdyk. Is there further discussion?

Commissioner Withers: Just a comment Mr. Mayor and Maria I wanted to respond to you on why I'm voting this way because I think it's important. When we were out soliciting these areas to become members of the Coral Gables community, one of the big echoing remarks that I heard constantly was, that we are moving into Coral Gables for good Police, good Fire, we know we have some issues that might conflict with your Codes, tree houses and things like that, we would kind of like those grandfathered in for awhile until we could get them straightened away; and then the other thing I heard was that we want to still have our own autonomy and that we want to maybe have some rules that we kind of can govern ourselves with and we can adhere to; and what I heard today was that like Commissioner Kerdyk said, this is kind of like one of those site specific issues where to me, I heard not one person in that local community, and they are governing themselves, that oppose this, and so I'm kind of...put it this way, we all believe if this was a 35 percent lot coverage going to a 42 or 45 percent lot coverage in Coral Gables, it would have been voted down without an issue.

Commissioner Anderson: You know, it's going to pass so there are no hard feelings, obviously. But actually in 2002, an issue came before us in the same neighborhood, and it wasn't noticed to the neighborhood, and we sent it back and it never came back to us on a variance. I don't think a lot of people know about this, and that's fine because these lots are large and 1,000 feet or 1,500 feet doesn't go very far. So there are a whole lot of people – absolutely the neighbors around probably got the notice and that's fine, and that's cool you know, whatever. I just think on an issue of fairness to the whole community, to the entire community, you know we put someone at a disadvantage, and I understand why you did it, but I think it's still zoning by variance.

Commissioner Withers: OK.

Commissioner Anderson: But I appreciate your comment and I respect that.

Commissioner Withers: That's how I feel, no problem.

Mayor Slesnick: Any further comments? Go ahead Mr. Kerdyk.

Vice Mayor Kerdyk: I think staff should take the time to reach out to the homeowners of both Snapper Creek in this location here to see if it's time to expand that what everything else in the City of Coral Gables, including Gables Estates, Old Cutler Bay, and all the other areas in the City of Coral Gables, be consistent, let's have consistency in the City, which is important for us too.

Commissioner Anderson: I totally agree, but take in mind 35 percent is not the same as 15 to 22, but I'll leave it there. This case is won already.

Commissioner Cabrera: Yes. It's all good.

Vice Mayor Kerdyk: It's all good.

Mayor Slesnick: Mr. Clerk if you'd call the roll please.

Vice Mayor Kerdyk: Yes

Commissioner Withers: Yes

Commissioner Anderson: Yes – No, I'm sorry, yes deny that variance.

Commissioner Withers: I thought I convinced you for a minute.

Commissioner Anderson: You are so good at it; I swear I had a moment.

Commissioner Cabrera: No

Mayor Slesnick: Yes

(Vote: 3-2)

Mr. Guilford: Thank you all very much.

Mr. Bartel: Mr. Mayor, Mr. Vice Mayor, each of you, more than I could possibly express in words to all five of you, thank you, thank you, thank you very much for letting us build our dream house. Thank you very much and to staff as well for your professionalism, thank you very much.

Commissioner Anderson: Enjoy your home.

Mayor Slesnick: Thank you.

[End: 11:55:52 a.m.]