

CITY OF CORAL GABLES
BOARD OF ADJUSTMENT
VERBATIM TRANSCRIPT
CORAL GABLES CITY HALL
405 BILTMORE WAY, COMMISSION CHAMBERS
CORAL GABLES, FLORIDA
MONDAY, JUNE 3, 2019, COMMENCING AT 8:08 A.M.

Board Members Present:
Oscar Hidalgo, Chairman
Jorge Otero
Eugenio Lage
Michael Sotelo
Gema Pinon

City Staff and Consultants:
Ramon Trias, Planning Director
Stephanie M. Throckmorton, Assistant City Attorney
Arceli Redila, Principal Planner

ALSO PARTICIPATING:
Kirk Lofgren, Ocean Consulting, LLC
Bibi Diaz, Trident Environmental

BA-19-04-5185
(146 Isla Dorada Boulevard)
BA-19-03-6069
(146 Rosales Court)

1 THEREUPON:

2 (The following proceedings were held.)

3 CHAIRMAN HIDALGO: I'll call the meeting to
4 order.

5 Good morning. The Board of Adjustment is
6 comprised of seven members. Four Members of
7 the Board shall constitute a quorum and the
8 affirmative vote of four Members of the Board
9 present shall be necessary to authorize or deny
10 a variance or grant an appeal. A tie vote
11 shall result in the automatic continuance of
12 the matter to the next meeting, which shall be
13 continued until a majority vote is achieved.

14 If only four Members of the Board are present,
15 an Applicant shall be entitled to a
16 postponement to the next regularly scheduled
17 meeting of the Board.

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

1 provide proof of registration shall prohibit
2 your ability to present to the Board.
3 I now officially call the City of Coral
4 Gables Board of Adjustments meeting of June 3rd
5 2019 to order. The time is 8:08.

6 Can we take a roll, City?

7 THE SECRETARY: Ms. Garcia?

8 Mr. Lage?

9 MR. LAGE: Here.

10 THE SECRETARY: Mr. Otero?

11 MR. OTERO: Present.

12 THE SECRETARY: Ms. Pinon?

13 MS. PINON: Present.

14 THE SECRETARY: Mr. Sotelo?

15 MR. SOTELO: Present.

16 THE SECRETARY: Mr. Thomson?

17 Mr. Hidalgo?

18 CHAIRMAN HIDALGO: Present.

19 Please note, for the record, that

20 Mr. Thomson had e-mailed the Board that he will
21 not be able to attend today's Board Meeting.

22 MS. THROCKMORTON: Excuse me, Mr. Chair,
23 would you like to excuse his absence as a
24 Board?

25 CHAIRMAN HIDALGO: We'll take a vote for

1 excusing Mr. Thompson.

2 Do I hear a motion?

3 MR. OTERO: So moved.

4 CHAIRMAN HIDALGO: It's been moved.

5 MR. SOTELO: Second.

6 CHAIRMAN HIDALGO: And a second.

7 Roll call, please.

8 THE SECRETARY: Mr. Lage?

9 MR. LAGE: Yes.

10 THE SECRETARY: Mr. Otero?

11 MR. OTERO: Yes.

12 THE SECRETARY: Ms. Pinon?

13 MS. PINON: Yes.

14 THE SECRETARY: Mr. Hidalgo?

15 CHAIRMAN HIDALGO: Yes.

16 Also, for the record, Maria Garcia is not
17 present, and from what I hear, she has not
18 contacted the Board at this time.

19 THE SECRETARY: Yes. We did not receive
20 anything.

21 CHAIRMAN HIDALGO: Thank you.

22 Our first item is the Approval of the
23 Minutes. Is there a notion to approve the last
24 Minutes of our Board?

25 MR. SOTELO: Move to approve.

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1 MR. LAGE: Second.

2 CHAIRMAN HIDALGO: There's a motion and a

3 second.

4 If we could take a roll.

5 THE SECRETARY: Mr. Lage?

6 MR. LAGE: Yes.

7 THE SECRETARY: Mr. Otero?

8 MR. OTERO: Yes.

9 THE SECRETARY: Ms. Pinon?

10 MS. PINON: Yes.

11 THE SECRETARY: Mr. Sotelo?

12 MR. SOTELO: Yes.

13 THE SECRETARY: Mr. Hidalgo?

14 CHAIRMAN HIDALGO: Yes.

15 Please be advised that this Board is a

16 quasi-judicial board and the items on the

17 agenda are quasi-judicial in nature, which

18 requires Board Members to disclose all ex-parte

19 communications and site visits. An ex-parte

20 communication is defined as any contact,

21 communication, conversation, correspondence,

22 memorandum or other written or verbal

23 communication that takes place outside a

24 hearing between a member of the public and a

25 Member of a quasi-judicial board regarding

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1 present who will speak on agenda items before

2 us please rise to be sworn in.

3 (Thereupon, the participants were sworn.)

4 CHAIRMAN HIDALGO: We also ask that any

5 cell phones or pagers or other electrical

6 devices be turned off at this time, please.

7 And now we will proceed with the agenda.

8 The first item is Case Number 19-8770. I'm

9 sorry, that's not the first case. That was the

10 minutes from last time.

11 The first case is, the Applicant is Ocean

12 Consulting, the property is 146 Isla Dorada

13 Boulevard, BA-19-04-6185. If the City could

14 please set out the case.

15 MS. REDILA: Good morning, Mr. Chair,

16 Members of the Board. For the record, Arceli

17 Redila from Development Services.

18 So the first item before you today is Item

19 BA-19-04-5185. It's a variance request for the

20 property located at 146 Isla Dorada Boulevard.

21 The request is to allow a proposed dock to

22 extent 17 feet nine inches outward from the

23 bank versus the five feet requirement. And the

24 second request is to allow a boat lift to

25 extend 37 feet and nine inches from the bank

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1 matters to be heard by the Board. In anyone

2 made any contact with a Board Member regarding

3 an issue before the Board, the Board Member

4 must state on the record the existence of the

5 ex-parte communication and the party who

6 originated the communication.

7 Also, if a Board Member conducted a site

8 visit specifically related to the case before

9 the Board, the Board Member must also disclose

10 such visit. In either case, the Board Member

11 must state on the record whether the ex-parte

12 communication and/or site visit will affect the

13 Board Member's ability to impartially consider

14 the evidence to be presented regarding the

15 matter.

16 Does any member of the Board have such

17 communication and/or site visit to disclose at

18 this time?

19 There's no show of hands, so no one has

20 been contacted.

21 Everyone who is going to speak today must

22 complete the roster on the podium. We ask that

23 you print clearly so that the official record

24 of your name and address will be correct.

25 Now, with the exception of attorneys, all

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1 versus 25 feet.

2 So the property location is in Cocoplum

3 Section 2. It abuts the Lago Monaco, Lake

4 Monaco, and here's an aerial. There is an

5 existing Single-Family house. There is already

6 an existing dock. The Applicant is proposing

7 to replace the dock, extending it a little bit

8 more towards the canal, and also proposing a

9 boat lift.

10 Here's an existing condition. Right now

11 they have a davit and the dock, and this is

12 what the Applicant is proposing. The dock

13 would be extending 17 feet and nine inches, and

14 the dock is -- the boat lift is 20 feet from

15 the dock line. So the dock and boat lift

16 together totals 37 feet and nine inches.

17 Staff is recommending approval. This was

18 reviewed by the Board of Architects and the

19 Cocoplum Homeowners Association, and the

20 Applicant's representative is here if you have

21 any question.

22 CHAIRMAN HIDALGO: Thank you.

23 MR. LOFGREN: Good. I'm Kirk Lofgren,

24 Ocean Consulting, with offices at 340 Minorca

25 Avenue, Suite 7.

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1 We've reviewed the Staff report and
 2 revisions of the report and we don't have any
 3 objections to that. We're here to address any
 4 questions that you do have.
 5 Just by way of information, in terms of the
 6 dock itself, there are two docks on either side
 7 of us, both of which extend further than our
 8 existing dock now, and when we project the new
 9 dock slightly waterward to achieve the water
 10 depths that we need, we still don't extend
 11 beyond the extension of the east dock.
 12 So if you drew a line between the east dock
 13 and west dock, a dotted line between those two,
 14 the shoreline is angled here, so you'll see
 15 that our dock is straight, and the shoreline
 16 angles back. So we are essentially in line
 17 with the two neighboring docks.
 18 But we're here to address any questions
 19 that you have.
 20 CHAIRMAN HIDALGO: Mr. Otero.
 21 MR. OTERO: Good morning.
 22 MR. LOFGREN: Good morning.
 23 MR. OTERO: What is the existing dock? How
 24 far does that extend?
 25 MR. LOFGREN: It's roughly five feet. I'll

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1 to make this more shallow. This also gives you
 2 an idea of how this dock is, to the west,
 3 extends further beyond where we do, to achieve
 4 the water depth, and we're doing the same
 5 thing, potentially, if you grant this.
 6 MR. OTERO: I know you're trying to answer,
 7 but what conditions have changed?
 8 MR. LOFGREN: I believe water depths have
 9 changed substantially.
 10 MR. OTERO: Water depths.
 11 MS. PINON: I had a question. With the
 12 expansion of the dock into the waterway, does
 13 that have any impact on the transit of other
 14 vessels through that waterway?
 15 MR. LOFGREN: It does not. We're required
 16 to maintain 75 feet clear, that's in the Code,
 17 and we maintain 125 feet clear. So there is no
 18 encroachment.
 19 MS. PINON: Okay.
 20 CHAIRMAN HIDALGO: I believe Mr. Otero had
 21 other comments.
 22 MR. OTERO: I'm still not sure I
 23 understand. Do you attribute the extension of
 24 the dock to a change in the water depth, but
 25 not to any environmental issue?

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1 show you the picture if it's helpful.
 2 MR. OTERO: This one you want to extend 17
 3 feet nine inches. What's the extension of the
 4 existing one?
 5 MR. LOFGREN: Five feet.
 6 MR. OTERO: Five feet?
 7 MR. LOFGREN: Yeah, roughly, from the bank.
 8 It depends on what side you're on, but it's
 9 roughly an existing five feet, and the reason
 10 we need to extend is because of the shallow
 11 water depths. This is what I would consider a
 12 non-consolidated shoreline, so the opportunity
 13 to dredge is not there. That shoreline --
 14 MR. OTERO: When was the existing dock
 15 built?
 16 MR. LOFGREN: If I had to venture a guess,
 17 in the '90s.
 18 MR. OTERO: What conditions have changed
 19 since the '90s until today?
 20 MR. LOFGREN: If you take a look at this
 21 photo here, if you take a look at the shoreline
 22 here, the water depths are substantially
 23 shallow through here. This dock was damaged
 24 from Hurricane Irma in 2017, which I believe
 25 brought in some of the fill that has come down

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1 MR. LOFGREN: Well, the shallow water is
 2 the environmental issue. This is a situation
 3 where DERM is saying, you need to push offshore
 4 to achieve the water depth.
 5 MR. OTERO: So it is DERM generated to push
 6 away?
 7 MR. LOFGREN: That's correct.
 8 MR. OTERO: That's the first. But as to
 9 the second variance, you're asking for an
 10 extension due to the size of the boat.
 11 MR. LOFGREN: So, in this particular case,
 12 the second variance is for the boat lift.
 13 MR. OTERO: Right.
 14 MR. LOFGREN: Right. So when you push the
 15 dock further than five feet, right, and then
 16 you try to achieve the structure, the boat lift
 17 structure, you're going to go beyond the 25
 18 feet. And in this case, we're in the same
 19 footprint as a regular floating vessel would be
 20 on the outside edge of that dock. So it's
 21 simply, the boat structure that's there that's
 22 taking that space --
 23 MR. OTERO: Your writeup seems to indicate
 24 it is due to the vessel with a 31-inch draft.
 25 If I put a vessel twice as big, would I then --

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1 would you then ask me to justify extending it
 2 further to allow for the additional depth?
 3 It seems like we are allowing the size of
 4 the vessel to dictate the second variance.
 5 MR. LOFGREN: No.
 6 MR. OTERO: Am I wrong there?
 7 MR. LOFGREN: Yes. In this particular
 8 case, the County requires that you have
 9 adequate water depth. In this particular case,
 10 adequate water depth for them is roughly
 11 four-and-a-half feet, roughly, in this
 12 particular case.
 13 So you're asking a hypothetical, if we
 14 ripped out the boat lift to try to put a bigger
 15 lift there, would we have to push the dock
 16 further?
 17 MR. OTERO: No, I'm not asking a
 18 hypothetical. I am saying, based on your
 19 report, that the size of the vessel would
 20 dictate how far away I can stick --
 21 MR. LOFGREN: No. Just to clarify, we're
 22 required to have four feet of mean level water,
 23 right. Our draft is 31 inches, not quite three
 24 feet. So we're pushed out the minimum
 25 necessary to achieve the four feet at mean

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1 So regardless of the type of vessel that I
 2 have there, I have to push this dock out,
 3 regardless of the vessel.
 4 MS. PINON: And there's no other remedy to
 5 reach that four feet?
 6 MR. LOFGREN: There is not.
 7 MS. PINON: Dredging is not feasible there?
 8 MR. LOFGREN: Dredging is not an option here.
 9 MS. PINON: And why is that?
 10 MR. LOFGREN: This is an unconsolidated
 11 shoreline. If it was an actual seawall
 12 shoreline, we might expect to see us request
 13 dredging. In this particular case, you have a
 14 sloped shoreline. If we remove the dredge
 15 material, that shoreline starts to come
 16 crashing down, because you're destabilizing the
 17 total of that shoreline.
 18 So, in this particular case, and in most of
 19 Cocoplum, there aren't seawalls. So, in this
 20 particular case, we're pushing offshore to get
 21 to a water depth to avoid destabilizing that
 22 shoreline.
 23 MR. LAGE: The 75 feet waterway, right,
 24 from what point to what point is it?
 25 MR. LOFGREN: Yes, so, normally, on normal

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1 level water. That's essentially where we are.
 2 We're not further. We're not shallower. We're
 3 right at that line. That's essentially where
 4 DERM said, "Go to this line. We have this
 5 edge. That way you have four feet of mean
 6 level water for whatever vessel you put there."
 7 MS. PINON: So, then, the water really
 8 isn't an issue, because you kept saying that
 9 the water is shallower, but if you clear the
 10 draw, then why --
 11 MR. LOFGREN: We clear it, not with the
 12 existing condition now. We clear it once we
 13 pushed it out offshore.
 14 MS. PINON: Oh, you do not clear it with
 15 the existing condition?
 16 MR. LOFGREN: That's correct. That's correct.
 17 MS. PINON: So, again, it goes back to your
 18 point, we're making a decision based on the
 19 size of the vessel, because if you had a
 20 different sized vessel, you would clear it.
 21 MR. LOFGREN: No. Maybe I'm not making
 22 myself very clear. Essentially, DERM is
 23 saying, you need to push out this dock to
 24 achieve four feet of mean level water, and four
 25 feet is their Code required water depth.

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1 conditions, there would be an evaluation of the
 2 opposing shoreline and their ability to extend
 3 and our ability to extend, and we would balance
 4 the two. In this particular case, opposing us
 5 is Cocoplum Marina with a mangrove shoreline.
 6 So there's no development allowed on the other
 7 side.
 8 MR. LAGE: Okay.
 9 MR. LOFGREN: So there is no encroachment
 10 from the other side of us. So we don't take
 11 that into consideration.
 12 MR. LAGE: Yeah, that was my point, because
 13 then the back neighbors won't be able to go for
 14 a variance.
 15 MR. LOFGREN: That's correct. And in this
 16 particular case, there is no development on the
 17 other side.
 18 CHAIRMAN HIDALGO: The condition where you
 19 would have a vessel that would have a draft
 20 shallow --
 21 MR. LOFGREN: Yeah.
 22 CHAIRMAN HIDALGO: -- if you would have a
 23 vessel that had a deeper draft, how would that
 24 affect the minimum requirement? You would have
 25 to, I guess, push the dock out further out to

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1 achieve that water depth or change the vessel?
 2 MR. LOFGREN: Or change the vessel, and
 3 there's always a balance. It's always a fine
 4 balance. In this particular case, we're at the
 5 minimum necessary, because we need to maintain
 6 one foot of clearance between the deepest part
 7 of the vessel and wall. That's the standard
 8 language from the County. Once you get to four
 9 feet, you're required to have the clearance.
 10 So we're at that four feet. We're not
 11 asking to go any further than four feet. We
 12 don't need it in this particular case, which is
 13 a good thing, since we're not going further
 14 out, and, again, we're not extending any
 15 further than the docks on either side of us.
 16 CHAIRMAN HIDALGO: And the fact that the
 17 lift surpasses that D-5 boundary line does not
 18 concern the City or DERM in any respect?
 19 MR. LOFGREN: Not at the City. It would be
 20 a question for DERM. It's a good question.
 21 And the property owner and the property
 22 representatives have spoken to that west
 23 neighbor and they're not objecting. We
 24 actually have to get a letter of consent from
 25 them for the tiny corner.

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1 required to have DERM approval.
 2 CHAIRMAN HIDALGO: And that's also been
 3 approved by DERM?
 4 MR. LOFGREN: That has.
 5 CHAIRMAN HIDALGO: On a final or a
 6 preliminary --
 7 MR. LOFGREN: No, all preliminary. I have
 8 to get structural from the City first.
 9 MR. LAGE: So normally what are the
 10 conditions for DERM to approve this? What is
 11 the condition --
 12 MR. LOFGREN: Number One is water depth
 13 always. Number Two -- well, DERM would tell
 14 you that it's marine resources Number One and
 15 water depth Number Two. They really go hand in
 16 hand. In our particular case, there weren't
 17 significant marine resources here, such as
 18 seagrass and coral, but there was a shallow
 19 water depth condition that pushed us to get to
 20 that four-foot contour, which is where we stand
 21 now.
 22 MR. LAGE: Did they tell you to restore
 23 this area? What did they tell you to do? Are
 24 there any conditions to restore the rocks
 25 and -- and the wet areas here? Any condition

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1 If you take a look at the proposed
 2 condition, that tiny corner exceeds the D-5
 3 that you're talking about, and we have to get
 4 a waiver from that neighbor.
 5 CHAIRMAN HIDALGO: And that currently
 6 hasn't been approved yet by DERM?
 7 MR. LOFGREN: Right. So DERM has given
 8 their preliminary stamp. They've basically
 9 said, "We're ready to approve this. Go to the
 10 City and get structural and Zoning signed off
 11 on, and then come back to us, but you need to
 12 get a waiver from that west neighbor, before we
 13 will actually give you the permit, as well,
 14 even if you get structural and Zoning."
 15 So we've talked to the west neighbor. They
 16 don't have any objection. They were actually
 17 the ones who suggested that we get more in line
 18 with them, as well, for water depth. They have
 19 no objection at this point.
 20 CHAIRMAN HIDALGO: And the jet ski pad, is
 21 that something that is also governed by DERM?
 22 Is that a DERM required approval or is that an
 23 automatic?
 24 MR. LOFGREN: It is. It is. It's not an
 25 automatic. Yeah, anything over water is

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1 that is being --
 2 MR. LOFGREN: At this point, they haven't
 3 asked us to restore any of the rocky shoreline.
 4 We have requested to replace this dock that got
 5 damaged from the hurricane in 2017. So they
 6 haven't come to us and said, "You've got to add
 7 more riprap along the shoreline." That's not
 8 the condition here.
 9 We have asked to replace the dock that was
 10 damaged.
 11 MS. PINON: I mean, why is there no seawall
 12 in this area? Most of the Gables waterways is
 13 all bounded by seawall, all up and down, the
 14 bridges that are further along the waterway,
 15 along Granada Boulevard, west of US-1 --
 16 MR. LOFGREN: It's all about the mangroves.
 17 MS. PINON: Yeah, but the mangroves are on
 18 the opposing side, not on this side.
 19 MR. LOFGREN: Right. Not here, but most of
 20 Cocoplum is covered in mangroves, which is why
 21 they won't let you seawall that shoreline,
 22 because those mangroves would be killed with
 23 that.
 24 MS. PINON: So you're saying that in this
 25 particular property --

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1 MR. LOFGREN: They are not significant, no.
 2 Only on the edges. There's not significant
 3 mangroves on the property, but both neighboring
 4 properties, this one over to the west, but
 5 immediately to our east, yes, there is
 6 significant mangroves. That's the condition
 7 that doesn't allow for a seawall.
 8 MR. OTERO: I have a question for the City.
 9 Is that waiver from the neighbor recorded in
 10 the public records?
 11 MS. THROCKMORTON: It would be recorded in
 12 DERM's records. The City is not requiring that
 13 waiver. That's a DERM requirement. So as with
 14 all of these, if the Applicant doesn't receive
 15 approval from DERM, it will not go forward,
 16 whether or not you've granted the variance, but
 17 that requirement, the letter from the neighbor,
 18 is a DERM requirement, not the City's.
 19 MR. OTERO: But the variance, would it be
 20 proper or improper to consider the variance
 21 subject to that waiver?
 22 MS. THROCKMORTON: It will always be
 23 subject to that waiver, because the DERM
 24 approval will be granted, and it won't be
 25 allowed to be built unless that waiver is given

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1 Adequate clearance, by DERM's definition, is
 2 four feet at mean level water, regardless of
 3 the vessel you're putting in, even if I have a
 4 draft of six inches, I don't, I have a draft of
 5 31 inches. However, I don't have to push
 6 further than the minimum required to achieve
 7 that four feet mean level water.
 8 So if I drew a line at that four foot
 9 contour, right, as required by DERM, my dock is
 10 right on the edge of that. If I had come in
 11 here and said, I need a draft of six feet, then
 12 I've got to go find a seven-foot contour and
 13 push my dock further out. I don't have to do
 14 that, because I'm not asking for a massive
 15 vessel here. I'm talking about a 40-foot
 16 vessel with a 31-foot draft.
 17 So the minimum standard that DERM has, I
 18 qualify for it. So I'm not asking to push it
 19 out further. I'm at the minimum necessary.
 20 MR. OTERO: So that would apply for
 21 everyone across that --
 22 MR. LOFGREN: It applies to everyone except
 23 in very limited situations, but everyone has a
 24 minimum standard that they have to achieve.
 25 MS. THROCKMORTON: Mr. Lofgren, perhaps you

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1 by the neighbor. So this is sort -- it's my
 2 understanding that this is sort of, you know,
 3 the chicken before the egg. You have to get
 4 this approval before they can get the next
 5 approval, and that next one won't happen
 6 without this one.
 7 MR. OTERO: Speaking of the chicken before
 8 the egg, explain to me the depth requirement
 9 again, because when I read this, it seems to me
 10 to be dictated by the size of the vessel. You
 11 say, no, it's dictated by some other
 12 requirement. Would you go over that again,
 13 because that bothers me? A year or two ago, we
 14 had an issue with the size of the vessel, and
 15 the variance was rejected, because it shouldn't
 16 be a function of the size of the vessel.
 17 So explain to me the depth again.
 18 MR. LOFGREN: So, in this particular case,
 19 depth of the vessel is not a significant issue
 20 on my side from a permitting standpoint. The
 21 draft of our vessel is 31 inches.
 22 MR. OTERO: I don't want to hear about the
 23 vessel. I want to hear about the depth.
 24 MR. LOFGREN: No, I'm getting there. DERM
 25 requires you to have adequate clearance.

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1 could clarify, currently, the way the dock is
 2 now, it doesn't meet DERM standards?
 3 MR. LOFGREN: It does not.
 4 MS. THROCKMORTON: And in order to achieve
 5 the minimum DERM standard, this variance is
 6 required?
 7 MR. LOFGREN: That's correct.
 8 MR. OTERO: Are you talking about the dock
 9 or the boat lift?
 10 MS. THROCKMORTON: The dock. It's my
 11 understanding that the boat lift extension is a
 12 result of the depth requirement, because the
 13 boat lift would be 20 feet if it was five
 14 inches from the wall --
 15 MR. LOFGREN: That's correct. Our boat
 16 lift is 20 feet. It's standard and allowed by
 17 the City of Coral Gables, the width of that
 18 boat structure. It just happens to be on the
 19 outside edge of the dock.
 20 MR. SOTELO: So we're stating, on the two
 21 sides of the home, we do have docks that extend
 22 beyond what you're requesting right now?
 23 MR. LOFGREN: That's correct.
 24 MR. SOTELO: And can we ask the City, those
 25 two homes have been approved? Were they

1 provided with variances?
 2 THE SECRETARY: As included in our packet,
 3 there is a variance diagram of the neighboring
 4 properties, and as far as the supporting
 5 documentation, on both sides, there's record of
 6 it. And if you look at Number 2 on this
 7 attachment, that one, it actually moves further
 8 out.
 9 MR. LOFGREN: I have it here, in the
 10 aerial, if it's easier to see.
 11 This is us here. Just to give you an idea,
 12 here we are, here's the neighboring dock,
 13 projected out, and here's the one to the east
 14 projected out, and, actually, this dock here is
 15 projecting even further.
 16 And what I was suggesting is that we're
 17 pushing out to a point here, where if you drew
 18 the line from this edge to edge, we're actually
 19 in line with that.
 20 CHAIRMAN HIDALGO: The question for the
 21 City, along the same lines as Mr. Otero's
 22 question, this is in reference to the boat
 23 lift. So, in essence, the City would have no
 24 decision over the lift, other than the
 25 Applicant getting approval or final approval

1 we made sure that we met the side setback
 2 requirement of 15 feet. If you look at our
 3 drawing, the sheet I believe is S-3, you'll see
 4 that we had pushed it, shifted it, to make sure
 5 that we met the City's setback, the side yard
 6 setback from the property line. We do exceed
 7 slightly the D-5, but the City setback, we do
 8 meet.
 9 THE SECRETARY: Yes. If I may, Mr. Chair,
 10 the Code only requires us to look at the
 11 projection towards the water and the side
 12 setback.
 13 CHAIRMAN HIDALGO: Thank you.
 14 THE SECRETARY: And to make sure that they
 15 meet the side setback.
 16 CHAIRMAN HIDALGO: Any other questions for
 17 Mr. Lofgren?
 18 Is there anybody in the audience that
 19 wishes to comment on this particular case?
 20 We're going to close the public forum.
 21 Any comments from the Board Members?
 22 MR. SOTELO: I have one comment. It's
 23 just, you know, I feel like you're the one
 24 that's always in front of us, but I hope you
 25 understand the scrutiny that we're giving this,

1 from DERM that the encroachment past the D-5 is
 2 allowable? Is that correct?
 3 MS. THROCKMORTON: I'm not sure I'm
 4 understanding. The City Code says that a boat
 5 lift can't extend more than 25 feet. That's
 6 normally the five foot dock, plus 20 feet for
 7 the boat. So that's 25.
 8 If they're moving the distance of the dock,
 9 by necessity the lift would also move an
 10 additional 20 feet. So that's the City's role
 11 in this, is approving that distance. DERM
 12 would still have to approve that D-5 area.
 13 MR. LOFGREN: Which I think was your
 14 question, right?
 15 CHAIRMAN HIDALGO: Right. My question was,
 16 the encroachment past the D-5 has to do with
 17 DERM approval and not a City approval?
 18 MS. THROCKMORTON: That's my understanding,
 19 is that the City doesn't look at that. The
 20 City only looks at the distance from the edge
 21 of the lift from the water -- from the edge of
 22 the water.
 23 MR. LOFGREN: And we did work with City
 24 Staff to make sure that we shifted -- at one
 25 point, we had shifted further to the west, but

1 because, I think, to your point, there's some
 2 concerns about the vessel being a driver of
 3 what we're requesting.
 4 Because of that last comment, I wanted to
 5 kind of say, it looks like the adjoining
 6 properties don't have boat lifts that extend.
 7 Is that correct?
 8 MR. LOFGREN: As far as I know. I don't
 9 know if they have --
 10 MR. SOTELO: Because if I'm just looking at
 11 these actual drawings right now, it looks like
 12 everything is pretty even up. I think we have
 13 your property closer to the home. But with the
 14 extension of the boat, we're going to go beyond
 15 where the current vessels of these properties
 16 are, correct?
 17 MR. LOFGREN: I wouldn't suggest that we're
 18 going to go beyond where the vessels would be
 19 sitting in the water, no. That's not something
 20 that we're trying to do. We're trying to meet
 21 the same footprint as what our neighbors have,
 22 in terms of where the floating vessels would
 23 sit. We're actually just putting it on the
 24 lift. So we're not proposing to project beyond
 25 their vessels.

1 MR. SOTELO: Got it.

2 MR. OTERO: Just to have the record clear,

3 I haven't heard that there are no objections by

4 any of the neighbors? Any objections by any of

5 the neighbors?

6 THE SECRETARY: We have not received any

7 objections from the neighbors, but they have

8 gotten an approval from the homeowners

9 association as a requirement for them to get an

10 approval from the Board of Architects.

11 MR. OTERO: The homeowners association

12 approval was regarding the dock and the boat

13 lift or was it regarding just ownership of the

14 house?

15 THE SECRETARY: They will not be able to

16 get approval from the Board of Architects if

17 they have not gotten an approval from the

18 homeowners association.

19 MR. OTERO: So is that in our packet?

20 Because the packet says association approval,

21 and that's just as being owners. I don't think

22 it approves specifically the dock.

23 THE SECRETARY: Yes, Mr. Chair, but they

24 will not be able to go before the Board of

25 Architects if they have not gotten an approval

1 I don't know if we can put in the variance

2 that they have to come in right in front of

3 their house, because if you have a 40-foot

4 boat, you're going to be right in front of the

5 neighbor's house -- there's no way around that

6 -- making all of this noise. You only have 15

7 feet.

8 THE SECRETARY: Only 15 feet side setback.

9 MR. LAGE: Yeah. Yeah. That's what I'm

10 saying. But if you analyze that, if I have a

11 40-foot boat, I don't want to be in front of

12 the neighbors. Can the City implement anything

13 that they have to come in through the --

14 THE SECRETARY: I don't think we have that

15 requirement in the Code.

16 MR. LAGE: Do you understand what I'm

17 trying to say?

18 MS. THROCKMORTON: I think that's addressed

19 by the side setback issue.

20 THE SECRETARY: Yes, that's already

21 addressed by the side setback issue.

22 MS. PINON: I have one final question. Are

23 A and B -- is A contingent upon B of your

24 variance request? Is the actual proposed

25 extension of a dock contingent on the variance

1 from the homeowners association.

2 MR. LOFGREN: Correct. HOA approval was

3 granted on 4/23/2019.

4 CHAIRMAN HIDALGO: I think Mr. Otero's

5 clarification is that in our packet we only

6 have the approval of the homeowners to Cocoplum

7 and not the approval for the dock and/or lift.

8 MR. OTERO: That's correct.

9 MS. THROCKMORTON: Mr. Chair, we can ask

10 for documentation to be made part of the

11 record.

12 MR. LAGE: Staff, the boat lift, the side

13 setback is 15 feet, correct?

14 THE SECRETARY: Yes, 15 feet.

15 MR. LAGE: And this boat lift is for how

16 big of a boat?

17 MR. LOFGREN: A 42-foot.

18 MR. LAGE: I'm concerned, when he comes in,

19 you know, he's going to be right across in

20 front of the neighbor's house with a 40-foot

21 boat, trying to get into the boat lift.

22 That's going to make some kind of noise to the

23 neighbor, because the boat lift is right on

24 your side, it's not in the middle of the

25 property.

1 for the boat lift?

2 MR. LOFGREN: It's the other way around.

3 CHAIRMAN HIDALGO: We need to independently

4 vote on each one of those.

5 MS. THROCKMORTON: Yes. I would note that

6 whether or not the lift is there, there will be

7 a boat there.

8 MS. PINON: That's why I was asking whether

9 one was contingent on the other.

10 MR. LOFGREN: I think, at this point, that

11 B is contingent upon A.

12 MS. PINON: Right. So B on A, but not A on

13 B?

14 MR. LOFGREN: Right.

15 MR. OTERO: Can you very succinctly explain

16 the special condition specifying Variance A?

17 MR. LOFGREN: Shallow water depth, and the

18 inability to dredge.

19 MR. OTERO: Shallow water depth is

20 something that's a condition that didn't exist

21 when the prior dock was built?

22 MR. LOFGREN: That's correct. I believe it

23 was because of Hurricane Irma.

24 MR. OTERO: And then B follows from A,

25 because of the distance?

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1 MR. LOFGREN: Correct.

2 MR. OTERO: I could have saved a lot of

3 time if I had been listening.

4 MR. LOFGREN: Maybe I wasn't clear before.

5 I apologize.

6 CHAIRMAN HIDALGO: Any other questions from

7 any Board Member or among the Board or for

8 Mr. Lofgren?

9 Is there any motions?

10 Everybody should have the script or the

11 language for accept or deny.

12 MR. SOTELO: We're moving on Point 1, which

13 is the dock extension?

14 CHAIRMAN HIDALGO: Yes.

15 MR. SOTELO: So I'll move on that. I move

16 that the Board of Adjustment grant application

17 BA-19-04-5185, a request by Ocean Consulting,

18 LLC on behalf of the property owner, Luis

19 Rodriguez, for a variance for a Single-Family

20 home located at 146 Isla Dorada Boulevard, on

21 Point 1, to allow a proposed dock to extend 17

22 feet nine inches outward from the bank, versus

23 no dock, wharf or similar structure shall be

24 constructed more than five feet outward from

25 the bank, pursuant to Section 5-805(E) of the

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1 MS. THROCKMORTON: The item would simply

2 come back at the next meeting to be addressed.

3 The public hearing has already been closed, so

4 it would just be a discussion. You would

5 reopen the public hearing, but I would just

6 note that Mr. Lofgren, if he could explain, if

7 this variance was not granted, what would the

8 outcome be for the boat dock? I mean, would a

9 boat still be able to dock there, whether or

10 not there was a boat lift?

11 MR. LOFGREN: Yes and no. Could I

12 physically park a vessel there or moore a

13 vessel there, the answer is yes. We're talking

14 about a smaller vessel here. And for the

15 vessel that we're talking about, it's not

16 usually ideal to keep these types of vessels in

17 the water. These are the types of vessels

18 that, especially in this waterway, where you

19 get significant amount of growth from the

20 bottom, oftentimes the engines don't completely

21 tilt forward so that they're out of the water

22 -- the majority of them are out of the water,

23 but the lower unit is typically still within

24 the water, so wear and tear on the vessel is

25 greater if it's not out of the water.

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1 Coral Gables Zoning Code.

2 CHAIRMAN HIDALGO: There is a motion for

3 Item 1. Is there a second?

4 MS. PINON: I'll second it.

5 CHAIRMAN HIDALGO: There's a motion and

6 it's been second. Can we take a roll, please?

7 THE SECRETARY: Mr. Lage?

8 MR. LAGE: Yes.

9 THE SECRETARY: Mr. Otero?

10 MR. OTERO: Yes.

11 THE SECRETARY: Ms. Pinon?

12 MS. PINON: Yes.

13 THE SECRETARY: Mr. Sotelo?

14 MR. SOTELO: Yes.

15 THE SECRETARY: Mr. Hidalgo?

16 CHAIRMAN HIDALGO: Yes.

17 Item Number 1 has been approved. Is there

18 a motion or comments on Item Number 2?

19 MS. THROCKMORTON: There needs to be a

20 motion, one way or another, to either grant or

21 deny the variance, because that item is before

22 you. So we do need a motion of some kind to

23 grant, deny or defer the item.

24 MR. SOTELO: Counsel, explain the process

25 of a deferral?

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1 MR. SOTELO: The concern with that is, now

2 we're going back to what we were talking about

3 before, which is an approval because of the

4 vessel, right, and one of the things that we

5 always look at is the hardship that this

6 brings. And I think that the first point about

7 the dock is a true and honest hardship, at

8 least in my opinion.

9 Where I think all of us are a little bit

10 concerned is the hardship that comes with

11 lifting the boat out of the water or not,

12 because of exactly what was stated, because of

13 the size of the vessel. There are concerns

14 with the wear and tear of the vessel, which may

15 or may not be the case with a smaller vessel,

16 but what we're stating here is that because of

17 the size of the vessel, that would be the

18 hardship.

19 MS. THROCKMORTON: Mr. Sotelo, I may ask

20 just to explain, so the variance is not whether

21 or not there's a lift. You are allowed to have

22 a lift. The question is where the lift is

23 projecting. So since you all have approved the

24 extension of the dock, it follows that the lift

25 would also be extended.

1 It's my understanding that the lift is the
2 standard 20 feet that the City would normally
3 approve. So it's not whether or not there's a
4 lift. They are allowed to have a lift via the
5 Code. It's just how far it's projecting. And
6 it would be projecting 20 feet from the edge of
7 the dock, and now the dock has been granted a
8 variance to be extended.

9 MR. OTERO: Why would there need to be a
10 second variance?

11 MS. THROCKMORTON: Because the Code says
12 that the lift -- there's two separate Code
13 provisions. One Code provision is about the
14 extension of the dock and one Code provision is
15 about the extension of the lift.

16 MS. PINON: But if we approve the first
17 one, then the second one has to automatically
18 be approved, too?

19 MS. THROCKMORTON: Logically, it may seem
20 that way, but the way the Code is written, it's
21 my understanding, and Arceli and Ramon can
22 correct me if I'm wrong, but there are two
23 separate provisions. If we look, it's 802(A)
24 which is the dock --

25 THE SECRETARY: Yes, there are two sections

1 of the Code that address both structures.

2 MS. THROCKMORTON: And by virtue of the set
3 up of the Code, we have separated out boat
4 lifts from docks. So, for that reason, we need
5 a second -- that needs a second variance.

6 MR. OTERO: I think the reason for Gema's
7 comment is that, the Board has agreed there are
8 special circumstances as to the first variance.
9 The Board apparently is skeptical as to whether
10 there are special conditions as to the second
11 variance. But, legally speaking, the City may
12 say, it is automatically approved, because of
13 the first variance, because of the 20-foot
14 requirement. In other words, if we do not find
15 special conditions on the second variance and
16 hypothetically vote to deny it, the Applicant
17 could easily go up the line and say, "You can't
18 deny B, but because you've approved A, as a
19 matter of law, because of the Ordinance."
20 That's why I'm confused whether it's even
21 required.

22 MS. THROCKMORTON: It is required, because
23 if, for example, you were looking at the
24 shoreline and you saw docks that extend and
25 boat lifts extending out more than 25 feet, you

1 would need a variance otherwise that would be a
2 Code violation. So you all are the
3 requirement here to approve that variance.

4 I understand what you're saying. Since
5 you've extended the dock, naturally the lift
6 should extend automatically, but since there
7 are two separate Code provisions, this required
8 two separate variances.

9 MR. OTERO: Without defining the special
10 conditions as to the second variance?

11 MS. THROCKMORTON: It's my understanding,
12 and I'll ask Staff, they can look at their
13 report, but part of the special conditions for
14 the second variance, the water lift, is now
15 that the dock is 17 feet, because you can't
16 have a water lift that fits between 17 feet
17 nine inches and 25 feet, because there's no
18 such lift that would fit in that distance, it's
19 my understanding, but I can have Staff explain
20 their report on the special conditions
21 necessary for that second variance.

22 MR. OTERO: I'd like to make a motion.

23 MR. LAGE: The only problem I have is, you
24 know, I know the size setback is 15 foot. How
25 big is a 40-foot boat, when I put it in this

1 lift here? How big is it? What's the size of
2 the 40-foot?

3 MR. LOFGREN: You mean, if I projected
4 it --

5 MR. LAGE: If you get to right here. You
6 probably be encroaching in the 15 feet, right,
7 to put a boat there?

8 MR. LOFGREN: Right. The Code doesn't
9 require that the vessel stay out of the 15
10 foot. It's only structure.

11 MR. LAGE: I understand that, but since
12 we're going to lift the boat further out, I am
13 concerned that -- I would feel better if you
14 put it right in the middle of the lot, because
15 this is going to be a problem for this
16 neighbor.

17 CHAIRMAN HIDALGO: That could be part of
18 your motion, yeah.

19 MR. LAGE: How big is the boat?

20 MR. LOFGREN: It's 42 feet, end length.

21 MR. LAGE: And this is 22.

22 MR. LOFGREN: We're encroaching the 15
23 feet. We're not going to encroach beyond the
24 property line.

25 MR. LAGE: I understand that. I'm

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1 concerned that the neighbor, when you lift the
 2 boat, their view is going to be affected, and I
 3 don't know -- if this is so important to you,
 4 why don't you put in a letter?
 5 MR. LOFGREN: We have spoken with the
 6 neighbor. The neighbor doesn't have any
 7 objection to the location of it. We've shown
 8 him the plans.
 9 MS. THROCKMORTON: I would just note that
 10 the things that are before you today are not
 11 the side setbacks. That's addressed by DERM
 12 and the Board of Architects. That's not before
 13 you today. It's just the variance for the
 14 projection of the lift. That's the item before
 15 you.
 16 CHAIRMAN HIDALGO: Do we have a motion?
 17 THE SECRETARY: And let me just clarify,
 18 Mr. Chair, also, so this dock, with or without
 19 the boat lift, the boat will be moored there,
 20 except that if you don't accept the boat lift,
 21 it will be submerged and it will not be lifted.
 22 CHAIRMAN HIDALGO: From an area
 23 perspective, whether it's a lift or a boat,
 24 there's going to be a footprint on the water
 25 side.

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1 variance would follow to be special conditions
 2 for the second variance, because of the
 3 Ordinance requirement of the 20 foot gap,
 4 correct?
 5 MS. THROCKMORTON: Yes. And if you look at
 6 the Staff recommendation, the report was for
 7 both variances and the Staff recommendation is
 8 that all of the seven or eight conditions have
 9 been met for both variances. That's Staff's
 10 recommendation in the Staff's report.
 11 MR. OTERO: I would like to make a motion,
 12 but before I do, what has been confusing is the
 13 emphasis on the boat. And it's been stated
 14 numerous times, and as I've stated, that should
 15 not dictate whether or not special conditions
 16 exists. Boats can be any size. And I don't
 17 think this Board will be influenced by the size
 18 of the boat.
 19 Notwithstanding, I move that the Board of
 20 Adjustment grant Application BA 19-04-5185 a
 21 request by Ocean Consulting, LLC on behalf of
 22 the property owner, Luis Rodriguez, for a
 23 variance for a Single-Family home located
 24 at 146 Isla Dorada Boulevard, to allow a boat
 25 lift to extend 37 feet and nine inches from the

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1 THE SECRETARY: Since the dock is now
 2 extended out, except that they will not be able
 3 to secure the vessel in a safety up position.
 4 MR. SOTELO: I think some of the concern
 5 here is the precedent. So I keep going to the
 6 actual -- and I'm familiar with the davits that
 7 go up and the boat lifts that go up. Let's say
 8 it's a larger boat. Let's say it's a 60-foot
 9 boat -- actually, let's say it's a 50-foot
 10 boat. The beam of the boat, would we have to
 11 go out further into the water with a bigger
 12 lift?
 13 MR. LOFGREN: That's correct, but we would
 14 have to come back to this Board requesting
 15 approval to do that. We're allowed the maximum
 16 distance waterward if you're able to approve
 17 this.
 18 MR. OTERO: Based on the testimony I've
 19 heard --
 20 THE SECRETARY: The second item on your
 21 agenda is also a similar situation.
 22 MR. SOTELO: Fantastic.
 23 MR. OTERO: So based on the testimony I've
 24 heard today, and correct me if I am wrong, City
 25 Attorney, the special conditions on the first

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1 bank of the waterway versus watercraft lifts or
 2 floating watercraft lifts shall not extend
 3 beyond 25 feet from the bank of the waterway
 4 pursuant to Section 5805(B) of the Coral Gables
 5 Zoning Code. The motion is made upon the
 6 testimony presented, along with the application
 7 submitted, and the Staff report which
 8 constitutes competent and substantial evidence.
 9 The board hereby makes findings of fact
 10 that each of standards in 3806 of the Zoning
 11 Code has been met.
 12 CHAIRMAN HIDALGO: There is a motion. Is
 13 there a second?
 14 MR. LAGE: Can we put the neighbor's letter
 15 in the record, too? I would feel more
 16 comfortable if we had that.
 17 MS. THROCKMORTON: Mr. Lage, if you would
 18 like to move to amend the motion to add a
 19 requirement, you can do so.
 20 MR. LAGE: I would like to amend the motion
 21 to put the neighbor's letter in that record,
 22 please. I want the future buyers to be aware
 23 of the situation.
 24 MS. PINON: Should it be recorded, then?
 25 Because if it's not recorded, then how would

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1 any boats or possible future owners know that
 2 there is such an approval?
 3 MR. LAGE: We can amend it to be recorded.
 4 MR. OTERO: Roberts Rule of Order --
 5 MS. THROCKMORTON: Hold on one moment.
 6 So the motion, as it stands, as amended, is
 7 to approve the variance with a requirement that
 8 a letter of approval from the neighbor, on
 9 which side, the D-5?
 10 MS. PINON: The 15 feet setback.
 11 MS. THROCKMORTON: I'm sorry, but which
 12 neighbor are you requesting --
 13 THE SECRETARY: On the west side.
 14 MR. LAGE: On the west side.
 15 MS. THROCKMORTON: That a letter of
 16 approval from the neighbor on the west side is
 17 added to the record of the granting of this
 18 variance, and to the extent that anything is
 19 recorded, that that letter is also recorded.
 20 I'm not sure that these variances are recorded.
 21 THE SECRETARY: That would go from the
 22 Board, and it's recorded at the time.
 23 MS. THROCKMORTON: Recorded in the County
 24 Clerk's Office?
 25 THE SECRETARY: Yes.

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1 MS. THROCKMORTON: Mr. Lage, I just think
 2 that there's a question of clarification as to
 3 whether or not that letter is required by you,
 4 as the Board of Adjustment, or whether or not
 5 you want that letter required even if DERM
 6 doesn't require it?
 7 MR. LAGE: I want it, even if DERM doesn't
 8 require it.
 9 MS. THROCKMORTON: Now, I would note that
 10 that's not one of the items that you should --
 11 I mean, you can add a condition, but that's not
 12 one of the items for consideration under the
 13 Code for the granting of a variance.
 14 MR. LAGE: I move to withdraw my motion
 15 then.
 16 MR. OTERO: You're moving to withdraw my
 17 motion?
 18 MS. THROCKMORTON: Mr. Lage, just for
 19 clarification, you are removing your amendment?
 20 MR. LAGE: My issue is, you know, I heard
 21 from the Applicant that the neighbor doesn't
 22 mind, very clearly, that was my impression, and
 23 now I see that, you know, it's not really
 24 clear. I know it doesn't require it, but I'm
 25 just concerned. I would second the motion,

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1 MS. THROCKMORTON: Okay. Yes, so it will
 2 be noted that the approval of the neighbor is
 3 also made part of the record and is recorded.
 4 MR. LOFGREN: Can I clarify just one? Just
 5 to clarify, the letter -- the waiver letter
 6 from the neighbor from the County is only
 7 required if we cross the D-5, which we are
 8 crossing. I just wanted to clarify the motion
 9 that we would provide the letter if we cross
 10 that D-5, as opposed to -- in other words, if
 11 we didn't cross that D-5 line, that viewing
 12 corridor line --
 13 MR. LAGE: If I heard you correctly, you
 14 said the neighbor had no problem with it --
 15 MR. LOFGREN: That's correct.
 16 MR. LAGE: That's it. That's all I want.
 17 MR. LOFGREN: And I'm not disagreeing with
 18 you. I just wanted to clarify that, if we
 19 continue to encroach on that, we have no
 20 problem going to the neighbor if we encroach.
 21 I just wanted to clarify just to specify that,
 22 yes, as a result of that, because otherwise
 23 it's not required from DERM.
 24 MR. LAGE: I will second the motion with
 25 the amendment that I have.

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1 with my amendment, if the Applicant agrees with
 2 that.
 3 MR. LOFGREN: We're okay with that.
 4 MR. SOTELO: But the waiver is currently
 5 required if you pass the D-5 line.
 6 MR. LOFGREN: No matter what.
 7 MR. SOTELO: And all parties around this
 8 home are always notified of public hearings?
 9 THE SECRETARY: Yes.
 10 MR. LOFGREN: So if we were to shift it to
 11 the south -- to the east, then that letter
 12 would not be required.
 13 MR. OTERO: I understand that this Board
 14 has a motion not yet second it, but the issue
 15 of the DERM approval or disapproval is a next
 16 step. In other words, I don't think it's
 17 within our purview to address DERM approval.
 18 I think we have the ability to add anything
 19 we want, anything we want, but I think if this
 20 is approved by the Board, my understanding is,
 21 there is no permit to be issued until all the
 22 boxes are checked, including DERM's box.
 23 MS. THROCKMORTON: Yes.
 24 MR. LOFGREN: Including that letter from
 25 the neighbor, which is required by DERM.

1 MS. THROCKMORTON: Yes.
 2 MR. OTERO: Which, frankly, my initial idea
 3 was to record it, but I think it may screw up
 4 title in the future if this is misunderstood
 5 anyhow. So, I think, without the approval by
 6 the neighbor, if it's required, DERM will not
 7 approve it, and we just spent an hour and a
 8 half on an intellectual discussion on a dock
 9 for no reason, but that's okay.
 10 MS. THROCKMORTON: So I need some
 11 clarification on the motion that's on the table
 12 for a first.
 13 MR. LAGE: I withdraw my --
 14 MS. THROCKMORTON: Your amendment has been
 15 withdrawn. All right. So Mr. Otero's motion
 16 to approve the second variance to extend 37
 17 feet and nine inches from the bank of the
 18 waterway now requires a second to be voted on.
 19 CHAIRMAN HIDALGO: Is there a second?
 20 MR. SOTELO: Second.
 21 CHAIRMAN HIDALGO: The motion has been
 22 second. Can you take a vote, please?
 23 THE SECRETARY: Mr. Sotelo?
 24 MR. SOTELO: Yes.
 25 THE SECRETARY: Ms. Pinon?

1 request is to allow a boat lift to extend 35
 2 feet six inches from the mean high water versus
 3 the required 25 feet. The location is in the
 4 same area as the first item in the agenda.
 5 It's in Cocoplum Section 2, on the south side,
 6 and here is a little bit closer, and there's an
 7 existing Single-Family home, there's an
 8 existing dock, and they are replacing in the
 9 same footprint except that it's the same with
 10 every other variance that comes before us,
 11 there is no permit drawing where we can see if
 12 it was -- it specified the location of the dock
 13 previously.
 14 As such they're requiring a variance at
 15 this time, and then they are proposing a boat
 16 lift. And, in this property, there is a Site
 17 Specific, as opposed to the previous one, and
 18 there is dense mangrove trees along the banks.
 19 It abuts the Mangrove Preserve. There is an
 20 abutting preserve. There's the lot. You can
 21 see, there's the Site Plan showing the existing
 22 dock and the proposed boat lift. Here's a
 23 closer look to it.
 24 This was, again, showing variances or
 25 properties that have gotten variances in the

1 MS. PINON: Yes.
 2 THE SECRETARY: Mr. Otero?
 3 MR. OTERO: Yes.
 4 THE SECRETARY: Mr. Lage?
 5 MR. LAGE: Yes.
 6 THE SECRETARY: Mr. Hidalgo?
 7 CHAIRMAN HIDALGO: Yes.
 8 MR. LOFGREN: Thank you very much.
 9 CHAIRMAN HIDALGO: The second case in our
 10 agenda is the property at 146 Rosales Court.
 11 If the City could please --
 12 THE SECRETARY: Again, good morning, Mr.
 13 Chair. For the record, Arceli Redila from
 14 Development Services.
 15 So the second item before you is for Item
 16 BA-19-03-6069. This is a request by Trident
 17 Environmental, on behalf of the property owner,
 18 Manuel and Catherine Menendez, for a variance
 19 for a Single-Family home located at 146 Rosales
 20 Court.
 21 So there is two variance requests, and this
 22 is to allow the replacement of a wood dock at
 23 an existing Single-Family residence to extend
 24 into the waterway 40 feet from the property
 25 line versus the required 10 feet. And a second

1 past in this location. There is still that
 2 navigable waterway, which requires 75 feet.
 3 With this, Staff is recommending approval.
 4 This also was reviewed by the Board of
 5 Architects, and the representative of the
 6 homeowner is here, if you have any questions.
 7 MS. THROCKMORTON: Arceli, can you just
 8 clarify the record. I'm not sure I heard you
 9 correctly, that this is an existing footprint
 10 but there was no permits found?
 11 THE SECRETARY: Yes.
 12 MS. THROCKMORTON: Okay. Thank you.
 13 MS. DIAZ: Good morning, Bibi Diaz, from
 14 Trident Environmental, at 1850 Southwest 8th
 15 Street.
 16 So our case is a little bit different than
 17 the previous case, because we do have Site
 18 Specifics which means that this section of
 19 Cocoplum was allowed to go out ten feet from
 20 the waterway bank. However, in this property,
 21 how the City reads your property line is very
 22 different. Because there is no defined bank,
 23 they're taking it from the survey tideline. So
 24 I don't want you guys to be scared that we're
 25 saying a 40-foot projection. We are not going

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1 40 feet into the waterway.
 2 This property also has significant mangrove
 3 fringe all around and there's nothing we can do
 4 to trim them, remove them, do anything about
 5 those.
 6 We did have an existing dock that is there.
 7 It was built, according to aerial records, in
 8 1989, give or take, but there was no permit
 9 found for that. This was built before the
 10 property owner bought the property. We can do
 11 nothing about what was there. So we are
 12 replacing it in the same footprint that is
 13 there right now. We're not going any further
 14 on either side. And the only thing we are
 15 requesting is replacing of the dock, which
 16 would require a variance, because we're
 17 going -- even though it's only 19 foot six from
 18 the top of the bank, the way the Code reads for
 19 the section, we have to look at the survey
 20 tideline, which is significantly inside the
 21 property. So that's why we're asking for the
 22 40.
 23 And the boat lift, again, because of how
 24 the Code reads, we are waterward, the dock, and
 25 we have to go, I think, 35 foot six.

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1 the special conditions?
 2 MS. DIAZ: We have the mangroves across the
 3 entire bank and that actually covers, if you
 4 see this picture, the aerial, these mangroves
 5 are mitigation mangroves from Cocoplum. When
 6 the development was done, the County required
 7 the mangrove fringe be planted along all of the
 8 shoreline. This is why Cocoplum does not have
 9 seawalls, as opposed the other waterways. So
 10 those mangroves are -- because they're
 11 mitigation mangroves, they are highly
 12 protected. We cannot cut them back in any way
 13 to meet the requirements.
 14 MR. OTERO: Because of the mangroves, you
 15 cannot build the dock closer to the shoreline?
 16 MS. DIAZ: Correct.
 17 MR. OTERO: Not because of the size of the
 18 boat?
 19 MS. DIAZ: No.
 20 I would like to also add that Mr. Menendez
 21 currently has a 37-foot boat, and because of
 22 we're siting the boat lift in relation to the
 23 dock, if we were to put a 37-foot boat on the
 24 dock, we would still have a 20-foot setback to
 25 the neighbor on the right. And these

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1 MS. PINON: You're going 40 feet from the
 2 tideline out into the waterway, and what's the
 3 difference between where it is today?
 4 MS. DIAZ: Nothing.
 5 MS. PINON: Nothing. So it's not extending
 6 any further at all?
 7 MS. DIAZ: No.
 8 MS. PINON: So, in effect, you're just
 9 replacing the existing waterway?
 10 MS. DIAZ: Correct.
 11 MS. PINON: Is there any significance about
 12 the fact that we don't have a permit?
 13 MS. THROCKMORTON: I'm not sure that we can
 14 infer anything from that. I don't think there
 15 was a record found either way of any permit or
 16 denial by the Board of Adjustments. Is that
 17 correct?
 18 THE SECRETARY: No permit found.
 19 MS. THROCKMORTON: Was there anything found
 20 on the Board of Adjustment records?
 21 THE SECRETARY: No.
 22 MS. THROCKMORTON: That may be a record
 23 keeping issue. That might not indicate that it
 24 was built without a permit.
 25 MR. OTERO: Just for the record, what are

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1 properties are not straight in line, because
 2 it's kind of the curve. We're not impeding on
 3 anybody. We do not have a D-5 issue, because
 4 of the triangle, how it slopes out, because the
 5 property opens.
 6 On this map, I've highlighted all of the
 7 other properties that have received variances
 8 from the Board. Same issue, because of the
 9 mangrove fringe that you see all around.
 10 MS. THROCKMORTON: I'm sorry, just to
 11 clarify, for the record, you explained the
 12 DERM, that DERM permitting is still required
 13 for this property?
 14 MS. DIAZ: Correct. Yes. So we have DERM
 15 preliminary approval. We also have approval
 16 from the Cocoplum Homeowners Association. We
 17 do not get DERM final approval until we come
 18 back in with the City approval.
 19 THE SECRETARY: Let me just clarify, for
 20 the record. There is a permit card, but
 21 there's no permit drawings that we can see as
 22 to how far or the footprint of the existing
 23 dock. There is just a permit card that shows a
 24 new wood dock in 1991. Looks like it was done
 25 together with the existing house.

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1 MS. DIAZ: I think, when we went through
 2 that, it was applied for, but never issued, but
 3 there's no approvals or anything other than the
 4 computer that shows that there was something
 5 applied for a dock.
 6 CHAIRMAN HIDALGO: But Staff, if there
 7 would be a permit card, the assumption would be
 8 that there was a permit for the dock, correct?
 9 THE SECRETARY: Yes, except we couldn't
 10 find the drawings. Maybe the scanning motions
 11 were not sophisticated.
 12 CHAIRMAN HIDALGO: Any other comments for
 13 the Board?
 14 MS. DIAZ: No.
 15 CHAIRMAN HIDALGO: Is there anyone in the
 16 audience that wishes to speak regarding this
 17 case? No?
 18 Any comments among the Board Members?
 19 MS. PINON: I have a question for Staff.
 20 It seems that more and more we're facing all of
 21 these variances that have to do with docks. Is
 22 there any plan or intention or process where
 23 there's a form granted so that we're not all
 24 over the map? Going back to the prior case,
 25 the concern from the adjoining property owner

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1 are reviewing the Zoning Code. Elizabeth
 2 Plater-Zyberk is our consultant and so we've
 3 making some changes, so it may be timely if we
 4 look at this, if you agree and think it's a
 5 good idea.
 6 CHAIRMAN HIDALGO: Also, I think the
 7 waterway conditions are different south of
 8 Sunset than they are north of it, considerably.
 9 I think the waterways are a lot narrower on
 10 that northern side of Sunset.
 11 MR. TRIAS: And the shorelines are
 12 different and the environmental conditions are
 13 very different, and it's very clearly defined,
 14 south versus north. So I think we can have
 15 some simple changes to the Code that would
 16 limit the number of variances, and will be a
 17 good implementation of good policy.
 18 MS. PINON: My only concern is that we
 19 grant one variance here, one variance there,
 20 and we're setting precedent. Every time you
 21 want to do something, just come before the
 22 Board of Adjustment and get a variance, and,
 23 then, you know, one day somebody is going to
 24 really object to this.
 25 MR. TRIAS: Absolutely. I was thinking of

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1 and not necessarily this dock --
 2 Mr. Trias, this is more for Ramon this
 3 morning, I know these are all unusual lots.
 4 They're not uniform. They're not straight
 5 property lines. But is there any plan or --
 6 MR. TRIAS: Ms. Pinon, if you recommend
 7 that we look at the Code, I would agree with
 8 that, and basically what happens is that, in a
 9 big picture point of view, there are two halves
 10 to the City as far as the canals, north of
 11 Sunset and south of Sunset, for lack of a
 12 better plan.
 13 So we made some changes about a year ago,
 14 in terms of the width that was -- of the clear
 15 width between docks based on those extensions,
 16 and I think that we can do the same based on
 17 the fact that, in the southern half of the
 18 City, there's mangroves, there's different
 19 conditions that really don't allow that
 20 five-foot limit.
 21 So I think it would be a good idea, if you
 22 think it's a good idea, we can pursue some
 23 changes in the Code to be more reasonable and
 24 they can be Site Specifics or they can be just
 25 general changes to the Code, but right now we

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1 the same thing, and, in fact, like I said, we
 2 have the opportunity to do it right now, as we
 3 are reviewing many other things in the Code.
 4 So unless there's some objection, I will bring
 5 it to you, in terms of the thoughts for your
 6 input, also.
 7 MR. SOTELO: I think, on the basis of the
 8 number of cases that we're hearing that follow
 9 this -- I mean, we may not have meetings to
 10 come to if we do that, but I think, on the
 11 basis of the frequency of these types of asks,
 12 it may make sense to evaluate that.
 13 MR. TRIAS: Yes. Thank you.
 14 CHAIRMAN HIDALGO: Any other comments of
 15 the Applicant from the Board Members? No?
 16 We'll close then the public comments.
 17 Any comments from the Board Members?
 18 MR. OTERO: It seems to me that what we're
 19 doing is legitimizing a prior permit that's not
 20 complete in its record, and there are special
 21 conditions that to me is why we're here.
 22 CHAIRMAN HIDALGO: We have a motion?
 23 MS. PINON: I'll move. I'll move for the
 24 Board of Adjustment to grant or deny or defer
 25 application --

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1 MS. THROCKMORTON: Excuse me, please
 2 clarify, a motion to grant?
 3 CHAIRMAN HIDALGO: Can you clarify?
 4 MS. THROCKMORTON: Is it a motion to grant?
 5 MS. PINON: A motion to grant Application
 6 BA-19-03-6069 a request from Trident
 7 Environmental, on behalf of the property owner,
 8 Ramon and Catalina Menendez, for a variance for
 9 a single-family home located at 146 Rosales
 10 Court, to allow the replacement of a wooden
 11 dock for an existing single-family residence to
 12 extend into the waterway 40 feet from the
 13 property line versus docks may be constructed
 14 over in canal, waterways extending outward from
 15 the property line not more than 10 feet
 16 pursuant to Section A-23.A(1) of the Coral
 17 Gables Zoning Code, Appendix A, Site Specific.
 18 This motion is based upon the testimony
 19 presented, along with the application submitted
 20 and the Staff report which constitutes
 21 competent and substantial evidence. The Board
 22 hereby makes finding of facts that the
 23 standards of Section 3-806 of the Zoning Code
 24 have been met.
 25 CHAIRMAN HIDALGO: There's a motion.

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1 MS. THROCKMORTON: Mr. Sotelo, if you could
 2 just read the variance itself.
 3 MR. SOTELO: Okay. To allow a 28,000 pound
 4 capacity boat lift to extend 35 feet six inches
 5 from the mean high water versus watercraft
 6 lifts or floating watercraft lifts shall not
 7 extend beyond 25 feet from the banks of the
 8 waterways pursuant to Section 5-805(E) of the
 9 Coral Gables Zoning Code.
 10 MS. THROCKMORTON: Thank you. We have a
 11 motion and a second.
 12 CHAIRMAN HIDALGO: Yes.
 13 THE SECRETARY: Who is the second?
 14 Mr. Lage?
 15 MR. LAGE: Yes.
 16 THE SECRETARY: Mr. Otero?
 17 MR. OTERO: Yes.
 18 THE SECRETARY: Ms. Pinon?
 19 MS. PINON: Yes.
 20 THE SECRETARY: Mr. Sotelo?
 21 MR. SOTELO: Yes.
 22 THE SECRETARY: Mr. Hidalgo?
 23 CHAIRMAN HIDALGO: Yes.
 24 MS. THROCKMORTON: Mr. Chair, if I may, we
 25 received an e-mail from Ms. Garcia asking for

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1 MR. LAGE: Second.
 2 CHAIRMAN HIDALGO: It's been moved and
 3 second.
 4 Take the roll, please.
 5 THE SECRETARY: Mr. Sotelo?
 6 MR. SOTELO: Yes.
 7 THE SECRETARY: Ms. Pinon?
 8 MS. PINON: Yes.
 9 THE SECRETARY: Mr. Otero?
 10 MR. OTERO: Yes.
 11 THE SECRETARY: Mr. Lage?
 12 MR. LAGE: Yes.
 13 THE SECRETARY: Mr. Hidalgo?
 14 CHAIRMAN HIDALGO: Yes.
 15 Item 1 in this particular case is approved.
 16 Are there any comments or motions on Item
 17 Number 2?
 18 MR. SOTELO: I move to approve.
 19 CHAIRMAN HIDALGO: There's a motion.
 20 Is there a second?
 21 MS. PINON: I'll second it.
 22 CHAIRMAN HIDALGO: It's been moved and
 23 second. Take the roll, please.
 24 MR. SOTELO: Do you need me to go through
 25 it and repeat it --

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1 her absence to be excused. She had an
 2 emergency with her children this morning. I'm
 3 not sure if you would like to take a motion to
 4 excuse her absence or not.
 5 CHAIRMAN HIDALGO: Can we take a motion to
 6 excuse --
 7 MR. OTERO: So moved.
 8 MR. LAGE: Second.
 9 CHAIRMAN HIDALGO: Take a roll.
 10 THE SECRETARY: Mr. Sotelo?
 11 MR. SOTELO: Yes.
 12 THE SECRETARY: Ms. Pinon?
 13 MS. PINON: Yes.
 14 THE SECRETARY: Mr. Otero?
 15 MR. OTERO: Yes.
 16 THE SECRETARY: Mr. Lage?
 17 MR. LAGE: Yes.
 18 THE SECRETARY: Mr. Hidalgo?
 19 CHAIRMAN HIDALGO: Yes.
 20 MR. LAGE: Mr. Chairman, do we have to make
 21 any motion for the City to review the Code --
 22 MS. THROCKMORTON: A motion is not
 23 required, but I believe that Mr. Trias has
 24 heard your desire to have that looked at.
 25 Mr. Trias.

1 MR. TRIAS: Yes. I thank you very much
 2 because I think it's a very important thing to
 3 do. So we'll follow-up.
 4 We have two more items for discussion, and
 5 the first item is, I have to thank Mr. Hidalgo
 6 for his service. He has been with us eight
 7 years.
 8 CHAIRMAN HIDALGO: It's been a pleasure.
 9 MR. TRIAS: And he was the Member of the
 10 Board voted by the Board. As you know, there's
 11 seven Members of the Board. Five are appointed
 12 by the Commission, one by the City Manager, and
 13 one is appointed by the Board. So there has to
 14 be a motion and a second and --
 15 MS. THROCKMORTON: Mr. Trias, I'm sorry to
 16 interrupt. Mr. Hidalgo, this finishes up your
 17 fourth term, so that's eight years, which is,
 18 by Code, the maximum. So we will have to -- if
 19 the Board votes you to continue on as a member,
 20 we will have to discuss with the City Attorney
 21 whether or not that requires Commission -- a
 22 waiver of the Commission or not. It's a little
 23 unclear under the Code, since it's a Board as a
 24 whole appointment. So if the Board wants to
 25 take that up, I would ask that you give the

1 City Attorney's Office a little of bit of time
 2 to clarify that that is in line with the Code,
 3 just because we have some strange Code
 4 requirements.
 5 CHAIRMAN HIDALGO: So if I understand
 6 correctly, the motion would have to be whether
 7 my seat would continue as Chair or just as a
 8 regular member?
 9 MS. THROCKMORTON: Just as a regular
 10 member. So, Mr. Trias, if you don't mind, I
 11 ask that we defer the discussion of those items
 12 about Mr. Hidalgo's appointment until the next
 13 meeting, so we can get clarification on the
 14 Code about your appointment. Since you've been
 15 such a long serving member, we want to make
 16 sure that we do everything in line with the
 17 City Code.
 18 MR. TRIAS: Okay. Those are the two items.
 19 Thank you very much.
 20 MS. THROCKMORTON: I apologize.
 21 (Thereupon, the meeting was concluded at
 22 9:20 a.m.)
 23
 24
 25

1 CERTIFICATE
 2
 3 STATE OF FLORIDA:
 4 SS.
 5 COUNTY OF MIAMI-DADE:
 6
 7
 8
 9 I, NIEVES SANCHEZ, Court Reporter, and a Notary
 10 Public for the State of Florida at Large, do hereby
 11 certify that I was authorized to and did
 12 stenographically report the foregoing proceedings and
 13 that the transcript is a true and complete record of my
 14 stenographic notes.
 15
 16 DATED this 6th day of June, 2019.
 17
 18
 19 SIGNATURE ON FILE
 20 _____
 21 NIEVES SANCHEZ
 22
 23
 24
 25