

1 City of Miami Beach.  
2 City Commission Chambers  
3 1700 Convention Center Drive  
4 Friday, July 7, 2017  
5 Design Review Board

6  
7  
8 DRB 16-0082, 2120 Lucerne Avenue  
9

10 Board Members

11 (Present)

12 Katie Phang, Acting Chair

13 Elizabeth Camargo

14 Annabel Delgado-Harrington

15 James Bodnar

16 John Tuchin  
17

18 City Attorney's Office

19 Eve Boutsis  
20

21 City Staff

22 James Murphy & Michael Belush  
23  
24  
25

1 MR. MURPHY: The first formal  
2 application today will be, as we've  
3 already previously determined that this  
4 would be the first item heard today, after  
5 it was heard in last month's June agenda,  
6 DRB File No. 16-00082, 2120 Lucerne  
7 Avenue.

8 MR. GONZALEZ: Good morning.

9 THE COURT: Applicant Patrick and  
10 Marisa Dwyer requesting design approval  
11 for a construction of a new two-story  
12 single-family to replace an existing  
13 pre-1942 architecturally significant home,  
14 including a variance to exceed the maximum  
15 allowed floor-to-ceiling clearance height  
16 for non-air conditioned space located  
17 under a main structure.

18 ACTING CHAIR MS. PHANG: All right.  
19 Good morning.

20 MR. GONZALEZ: Good morning. For the  
21 record, Alfredo Gonzalez, offices of 333  
22 Southeast 2nd Avenue, with Greenberg  
23 Traurig, on behalf of the applicant. With  
24 me today is Patrick Dwyer and his wife,  
25 who couldn't make it, but she was here at

1 the last hearing. Also here is Ray Fort  
2 from Architectonica, the architect  
3 presenting, and my associate Zaba Castro  
4 from our offices.

5 I know at the last month's hearing,  
6 we had a full discussion and we went back  
7 and forth and there was discussion of a  
8 potential solution that the Board would  
9 accept. I wanted to do a quick overview.  
10 I know that John Turchin wasn't here last  
11 month. I don't know if you had a chance  
12 to review the tape, but I just wanted to  
13 go over a couple of points, and then I'm  
14 going to let the architect go through the  
15 proposed compromised changes and then I'd  
16 like to just save some time to give you  
17 some comments on the order and any  
18 rebuttal at the end.

19 As the last meeting we discussed,  
20 this issue is really about freeboard. The  
21 difference in this house versus other  
22 houses you've come, the fact that City  
23 Commission adopted up to five feet  
24 freeboard and we're here today asking for  
25 the Board to approve this house with the

1           five-foot freeboard. It's really the only  
2           difference in the height, otherwise it's  
3           particularly meeting the requirements.

4           And this is really because the sea  
5           level rise issues and the potentials of  
6           hurricanes. My client lived, as we talked  
7           at the last meeting, through Hurricane  
8           Andrew and his house was destroyed and has  
9           lived in Key Biscayne, so they've  
10          experienced firsthand the impacts of  
11          direct hits.

12          The biggest concern we've heard is  
13          the issue of privacy. I wanted to clarify  
14          again that this house is -- doesn't have a  
15          second floor terrace, rooftop terrace  
16          allowed by code. It only has above the  
17          first floor. And when it has above the  
18          first floor, we're only at 29 NGVD feet,  
19          which is lower than the roof heights on  
20          the two abutting houses next to us, so  
21          it's not creating any additional privacy.  
22          Actually, if you had a two-story house  
23          minus the freeboard, you'd still be at  
24          about that height.

25          So the applicant, concerned with

1 issues raised by staff, the Board and the  
2 residents about building this higher  
3 terrace that potentially you could see  
4 water views or into the neighbors, it  
5 purposely did not have above the second  
6 floor a terrace added and we're not  
7 proposing one. And the only terrace that  
8 was added above the first floor is a  
9 modest 618-square foot terrace.

10 As I said before, the two houses  
11 abutting this property are two large  
12 two-story homes with vaulted ceilings.  
13 We're not talking about having one-story  
14 homes abutting and we're on a corner, so  
15 it allows for the incorporation of  
16 freeboard without having a severe negative  
17 consequence.

18 I'm not suggesting that, because this  
19 house is approved, every house on -- every  
20 lot on Sunset Island IV, it would be  
21 appropriate, because of the scale, I mean.  
22 If we were an interior lot with two  
23 single-family homes surrounding three,  
24 actually, it may be a different case, but  
25 I'm talking specifically of this lot and

1           on the property.

2           And the original request really was  
3           trying to tackle the issues with the  
4           outdated code section regarding clearance.  
5           And I know -- I'll talk about the  
6           variance, but as before, the variance has  
7           no impact on the overall height of the  
8           house. We're not asking for any  
9           additional height than BFE, freeboard and  
10          the 24 allowed by code. We were  
11          sacrificing the interior of the house  
12          height, the 24 feet, to shift it to create  
13          a more habitable space that is functional.

14          And you'll see on the compromise some  
15          of the things that we now only have a  
16          seven-foot doorway. I mean, typically you  
17          found houses in West Dade, let alone in  
18          Miami Beach, at least an eight-foot  
19          doorway, but when we lowered it to 7'6, we  
20          lose that ability. And it will also limit  
21          the types of cars they can park under the  
22          house, which is also a benefit, because  
23          otherwise we would be allowed by code to  
24          build a 600-square foot, completely closed  
25          garage, that could be set somewhere on the

1 property. And, instead, we tried to  
2 incorporate it under the house. And, even  
3 further, to minimize the impact, while it  
4 could have been all enclosed, all 600  
5 feet, we only closed a portion of it since  
6 the garage is not just for cars, but  
7 storage, as defined in the code, for both  
8 uses. We tried to cut that in half and  
9 only put breeze block for half -- less  
10 than half of that space, 600 square feet.

11 But with that, I really like Ray to  
12 come through and talk about the  
13 compromise.

14 And just one more thing I wanted to  
15 make mention is, the compromise we talked  
16 about here was finding a way from which we  
17 originally requested, which was allowed us  
18 to stay at 24 feet plus BFE, and freeboard  
19 and then allowing clearance space, a  
20 variance for clearance within -- beneath  
21 the first floor of the house. That was  
22 one and a half feet above ground and one  
23 and a half feet below. So the three-foot  
24 variance was really not three feet or  
25 suggested as three feet raising the house.

1           That one and a half feet comes from the  
2           interior of the 24 feet we have for the  
3           home and the other foot and a half was  
4           lowering it outside the required yard  
5           setback rate by a foot and a half.

6           So the compromise now that we're  
7           going to present to you, we have lowered  
8           the house to 22 and a half and -- no,  
9           sorry, 23 and a half, 23 and a half feet.  
10          So we sacrifice a foot and a half of the  
11          allowable height. And just in one small  
12          portion, less than a third of the  
13          underneath the house, we're going down two  
14          feet for the open terrace.

15          But I'll let you get into the  
16          details. Go ahead.

17          MR. FORT: Thanks, Alfredo.

18          My name is -- is this on? Can you  
19          hear me?

20          Hi, my name is Raymond Fort. I'm a  
21          designer at Architectonica, located at  
22          2900 Oak Avenue, Miami, Florida 33133.  
23          And I'm going to give you -- I know most  
24          of you have seen this presentation before,  
25          so I'm going to make it a little bit more



1 compact, but I do know that we have a  
2 Board member here that has not seen it  
3 before, so I'll run you through some of  
4 the key elements in the home, in addition  
5 to describing some of the changes that  
6 have occurred since the last time we were  
7 in this presentation.

8 So the house is located at 2120  
9 Lucerne Avenue on Sunset Island IV. It is  
10 on the corner of 22nd Street and Lucerne  
11 Avenue. It is this site located here.  
12 And the house is abutting two 2-story  
13 homes that are both over -- that are  
14 comparable in scale to the house that we  
15 are proposing.

16 And when we looked at the design for  
17 this, we wanted to respect the setbacks  
18 and the open space that existed in the  
19 neighborhood. And, for that reason, we  
20 chose to do a house that was more compact  
21 and vertical instead of a home that was  
22 very spread out and very close to the  
23 neighbors.

24 For that reason, you can see that on  
25 the north end of the home, we've actually

1 setback the home. By being able to do a  
2 two-story home, this gave us flexibility  
3 and being able to place the house on the  
4 site. So while we could have gone close  
5 to the street, we decided to align the  
6 north facade of the home with the actual  
7 facade of the house to the west.

8 And to be clear, it's not aligned to  
9 the front of the porch. That's in front  
10 of the house here. So we pulled it back  
11 on that end to approximately 32 feet,  
12 whereas we would have otherwise been  
13 required a 30-foot setback.

14 On the east side of the home, we're  
15 at the 15-foot setback, but the house to  
16 the south is actually outside of what are  
17 today's setbacks, because it's a home that  
18 was designed before today's Zoning Code.

19 And on the south side of the home, we  
20 are pulled back approximately 40 feet --  
21 sorry, 30 feet from the setback, which  
22 gives us about 60 feet clear from our  
23 facade to the second floor facade of the  
24 house to the south.

25 If we had otherwise done a

1 single-story home, we would have been able  
2 to go to 50% lot coverage as opposed to 29  
3 -- we're at 30%. We're allowed at 30%  
4 coverage here, but we're less than the  
5 39%. And, in general, we really only have  
6 these two abutting neighbors, as the  
7 neighbor to the caddy corner isn't along  
8 our property line.

9 With that said, this is a zooming of  
10 that moment, but now I'd like to run you  
11 through some of the plans, as they've been  
12 slightly updated.

13 MS. BOUTSIS: You may want to come on  
14 this side, so that they can see you.

15 MR. FORT: Thank you.

16 So this is the ground floor of the  
17 home, the entry level of the home. And  
18 because of the base flood elevation and  
19 the freeboard, we are allowed to have our  
20 first floor above this. However, if we  
21 take into account those existing  
22 elevations, we have to come into the home  
23 -- we really had two choices here, whether  
24 to berm up to the house, which we have  
25 discussed last time or create some type of

1           understory to get into the home. And we  
2           felt that berming up to the house was not  
3           in character with the neighborhood and  
4           would otherwise create a kind of mountain  
5           up to the front door.

6           So we opted to actually utilize the  
7           understory of the home, which in this case  
8           we have the carport located on the north  
9           side and we have the pedestrian entrance  
10          on Lucerne Avenue. We made this decision,  
11          because 22nd Street is more of a vehicular  
12          street and Lucerne is more pedestrian and  
13          has less traffic, so that is the reason  
14          why we decided to enter the home from  
15          these two access outside.

16          And we made an adjustment here. One  
17          of the staff comments was to have a  
18          pathway that was narrower entering the  
19          home. And we took that into  
20          consideration. We made that pathway  
21          narrower all the way up to the front door  
22          of the home. From this vestibule is where  
23          we'll enter the first level of the house.  
24          And I'll show you that now. This path is  
25          five feet wide.

1           The house is intended to be lived on  
2           one level, so we put all of the  
3           programming necessary on this -- on the  
4           first level of the home. From the entry  
5           vestibule, we arrive to a small foyer,  
6           which leads into a living room, dining  
7           room, outdoor terrace, kitchen area,  
8           lounge area, which is sort of a secondary  
9           living room and then the master suite on  
10          this half or portion of the house.

11          Given that the Dwyers have four  
12          children, but most of them are away,  
13          either in school, we also wanted to  
14          provide a place for them to come back to,  
15          but it wasn't the -- intended to take  
16          space on the main living level, as they  
17          wouldn't necessarily be there all the  
18          time.

19          For that reason, on the second floor,  
20          which is significantly smaller than the  
21          first floor, we're showing the four  
22          children's bedroom all equal in size. And  
23          from there, we're able to access the  
24          terrace of the first floor. This side is  
25          inaccessible. This side would be

1           accessible.

2                   And you can see in these drawings,  
3           we're proposing quite a bit of landscaping  
4           as a buffer between our neighbors, while  
5           also keeping some of the existing trees,  
6           which will be found in the landscape plan.  
7           And, once again, that's made possible by  
8           doing a house that's more compact instead  
9           of a single-story home that would occupy  
10          more of the site.

11                  So when we look at the house from  
12          Lucerne, you'll see that there's an  
13          understory. We have the first living  
14          level and then the second floor above  
15          that. And because of the clearance issues  
16          that we had because of the base flood  
17          elevation, we actually opted to compress  
18          the house in elevation instead of bringing  
19          it all the way down to what the allowable  
20          base flood would have been. And this is  
21          where we had to make the decision of  
22          either berming up or going underneath the  
23          home.

24                  And if we had simply gone to the base  
25          flood elevation, we would have only had

1           6'5 clear underneath the home. And we  
2           thought that having a 6'5 berm was not  
3           really acceptable in this neighborhood.  
4           There's no other house has done it and it  
5           seemed out of character, whereas we look  
6           at precedence in Miami, in Florida, we do  
7           find a lot of modern homes that are up on  
8           stilts and are characterized in a very  
9           similar manner.

10           And this also was intended to be in  
11           keeping with the Miami Beach Mayor's  
12           commitment to sea level rise adaptation  
13           and making Miami a leader on confronting  
14           the climate issues we have at hand.

15           So now I'm going to show you some of  
16           the sections that will more clearly  
17           describe the changes in height that we've  
18           made since the last meeting. On this  
19           panel, you'll see the original proposed  
20           heights. And the yellow shaded area  
21           represents the 1'6 additional clearance  
22           height we had been requesting and also the  
23           1'6 that went below the required yard  
24           elevation. This was intended to give us a  
25           nine-foot clear entryway to the home,

1           which is considered to be -- I wouldn't  
2           even call it standard, but acceptable.  
3           And that would allow for an eight-foot  
4           door, entry door to the home, which we  
5           felt was very important and simply just  
6           from a quality of living standpoint.

7           Since our last meeting, we have  
8           lowered the home overall 1'6 inches, which  
9           now only give us 7'6 clear underneath the  
10          home and which will really only provide us  
11          a seven-foot door.

12          In exchange, we're also asking that  
13          we can go now to the grade elevation to  
14          get 9'6 clear only for a portion of the  
15          underside of the home, which is  
16          approximately 600 square feet in that  
17          area.

18          And this is the main change that  
19          we're proposing in section -- can I see  
20          the context?

21          So I know that we'd also received  
22          some drawings of one of the existing  
23          neighbors' homes.

24          BOARD MEMBER DELGADO: Excuse me.  
25          Just to clarify, did that change, the new



1 change affect your overall height?

2 MR. FORT: Yes, we brought the entire  
3 house down. We didn't --

4 ACTING CHAIR MS. PHANG: A foot and a  
5 half, correct?

6 MR. FORT: Yeah, we lowered the  
7 entire house. Over height didn't stay at  
8 the top. We're no longer at the maximum  
9 height permitted.

10 ACTING CHAIR MS. PHANG: But when you  
11 just said you also compressed the floors,  
12 did that include, yes, more, more than the  
13 18 inches for the compression, too, or no?

14 MR. FORT: Well, we had to leave area  
15 for MEP to come underneath the home,  
16 'cause it's on stilts, so we actually  
17 decreased the floor-to-floor height within  
18 the house as well.

19 ACTING CHAIR MS. PHANG: By how much?

20 MR. FORTE: Nine inches.

21 ACTING CHAIR MS. PHANG: So you  
22 lowered the home -- the entire height of  
23 the home by 18 inches and you lowered the  
24 actual internal height by nine inches?

25 MR. GONZALEZ: Correct, because one

1 of the problems that we had, was when we  
2 come down to 7'6, you still have to take  
3 into account all the plumbing that goes  
4 underneath the house, so you wouldn't even  
5 have a clearance. You would have a  
6 clearance of less than seven feet.

7 MR. FORT: Right.

8 MR. GONZALEZ: So we had to sacrifice  
9 to give the one foot and a half also take  
10 from the interior of the house --

11 ACTING CHAIR MS. PHANG: Nine inches.

12 MR. GONZALEZ: -- nine inches in  
13 order to get to this.

14 ACTING CHAIR MS. PHANG: Gotcha.

15 BOARD MEMBER CAMARGO: So in total,  
16 how much -- what was the total height of  
17 the house before and what is now?

18 MR. FORTE: 24 feet and now we're at  
19 22'6.

20 MR. GONZALEZ: No, 23'6.

21 MR. FORT: 22'6.

22 BOARD MEMBER BODNAR: Measured from  
23 where?

24 MR. MURPHY: That's measured would be  
25 BFE from the maximum freeboard, so

1           basically from 13.

2           ACTING CHAIR MS. PHANG:   BFE plus  
3           five?

4           MR. MURPHY:   Yes.

5           BOARD MEMBER DELGADO:   I'm sorry.

6           MR. FORT:   No, I just wanted to make  
7           one clarification. As we received some  
8           microfilm of the neighboring home and we  
9           previously drawn it as an educated  
10          estimate as to what the height of the home  
11          was and we were very close to what the  
12          actual house is of 30'2. We estimated a  
13          little bit over that, but, still, when we  
14          looked at it, we knew it was over our  
15          second floor slab, so we wanted to bring  
16          this diagram to clarify that the height,  
17          the corrected height, which is still in  
18          the range that we had estimated  
19          previously.

20          ACTING CHAIR MS. PHANG:   And that's  
21          2110 Lucerne?

22          MR. FORT:   Correct.

23          MR. GONZALEZ:   Which makes our first  
24          floor rooftop terrace below the total  
25          height of both homes abutting us, so we're

1 still in that, beneath the height.

2 MR. FORT: We removed all the  
3 landscaping here for clarification.

4 ACTING CHAIR MS. PHANG: Alfredo, is  
5 there anything more that you want to add?

6 MR. GONZALEZ: I just wanted to hand  
7 out our proposed staff conditions that  
8 we'd like to have modified or deleted and  
9 leave time for rebuttal.

10 ACTING CHAIR MS. PHANG: Sure. You  
11 know, we've gone over, but I know that  
12 this is a particularly interesting  
13 project, so I think we're close to being  
14 done with the project -- the project  
15 presentation.

16 MR. GONZALEZ: And -- I'm sorry.  
17 Just to shorten the time, the condition  
18 really is to allow us to have the home as  
19 we presented. The original staff report  
20 had it at one-story house and not  
21 recommending approval and also variance  
22 for two feet.

23 So we also -- there was one more  
24 condition that we asked to be deleted  
25 that's there, which is 3-E, which had to

1 do with the coral rock fencing along the  
2 property, which is at 4 feet 9 inches.  
3 There was recommendation to bring that  
4 down or open it up.

5 The concern we had with not allowing  
6 that solid fence around the property is  
7 that our grade differentials are about,  
8 what, two -- a little over two feet?

9 MR. FORT: 1 foot 8 inches,  
10 approximately.

11 MR. GONZALEZ: A 1 foot 8 inches  
12 difference, so having that wall there kind  
13 of hides the grade shift between that and  
14 the street. So while you walk on the  
15 sidewalk, it's a 4-foot 9-inch wall, but  
16 when you're inside the property, it's a  
17 shorter span.

18 MR. FORT: It's a three-foot wall  
19 from our property, 'cause the minimum yard  
20 elevation, but then 4-foot 9 from the  
21 street side and we need some way to retain  
22 the soil. And so by lowering that wall,  
23 while you may be creating a lower wall  
24 from the street effect, our requirements  
25 from the interior side have to have a

1 reasonable height wall just for  
2 containing, for example, pets and just  
3 having a yard that's protected. So that's  
4 the reason why we did not lower it even  
5 further.

6 BOARD MEMBER TURCHIN: So you're  
7 lowering under the house below base -- the  
8 base flood there a foot and a half?

9 MR. FORT: That's correct. That's  
10 below the yard elevation.

11 MR. GONZALEZ: No, that's two feet.  
12 The compromised two feet.

13 BOARD MEMBER TURCHIN: That's  
14 lower -- I'm looking at your street  
15 elevation. Your street is 4'9 and you're  
16 going down -- are you making a hole under  
17 the house?

18 MR. FORT: No, no, this will be at  
19 the grade elevation, so it will be level  
20 with the street.

21 BOARD MEMBER TURCHIN: What grade?

22 MR. FORT: With grade.

23 BOARD MEMBER TURCHIN: What grade?

24 MR. FORT: Oh, this is at 5'0.

25 BOARD MEMBER TURCHIN: So this house

1           -- this well you're creating is going to  
2           flood. When it rains heavily, it's going  
3           to become a swimming pool.

4           MR. FORT: No.

5           BOARD MEMBER TURCHIN: Why not? If  
6           it's at grade, the same as the street and  
7           the street floods, you're going to be  
8           flooded under the house.

9           MR. FORT: Well, we plan on providing  
10          a drainage system at that level of the  
11          home.

12          BOARD MEMBER TURCHIN: A drainage  
13          system going where?

14          MR. FORT: A --

15          BOARD MEMBER TURCHIN: Right now the  
16          whole problem with the city, if we're  
17          trying to raise it up for flood and you're  
18          digging a hole under the house, later on  
19          it's going to become a flood zone under  
20          your house that you're designing. You're  
21          designing -- the whole premise of what  
22          you're talking about is sea level rise and  
23          flood and you're creating a hole under  
24          this house, it's going to become a  
25          swimming pool.

1                   MR. GONZALEZ: What we're doing is,  
2                   for a small portion of the open terrace,  
3                   the outdoor area under the house, we're  
4                   allowing to get the clearance, so there is  
5                   more breezes. Now, we'll have a  
6                   requirement within the entire house to  
7                   capture all our rainwater as it is.

8                   MR. FORT: I'd like to point out that  
9                   that area under the home is intended to  
10                  flood, and that's the reason why the main  
11                  living level isn't at that height.

12                 BOARD MEMBER TURCHIN: So when it  
13                  floods, what happens? How do they get  
14                  into their house? This is their  
15                  entranceway into the house, right?

16                 MR. GONZALEZ: No.

17                 MR. FORT: No, this is only on one  
18                  portion of the home. Let me put up the  
19                  plan here. The area that's lowered will  
20                  only occur in this zone here. Everywhere  
21                  else is --

22                 ACTING CHAIR MS. PHANG: I'm actually  
23                  going to open up to public comment before  
24                  I get into Board questioning and Board  
25                  comment, so we're going to do that now,



1           Alfredo, if that's okay.

2           MR. GONZALEZ: We'll table it.

3           ACTING CHAIR MS. PHANG: Thank you.

4           MR. MURPHY: Just to confirm, Board  
5 members, I sent as received as many of the  
6 e-mails of concerned citizens to you as  
7 well as I distributed this morning the  
8 most updated petition for opposition from  
9 one of the neighbors.

10          ACTING CHAIR MS. PHANG: To be clear,  
11 the petition that we received this morning  
12 has 25 signatures for concerned residents  
13 that have opposition to the project at  
14 2120 Lucerne Avenue and that's what we  
15 received today.

16          So I'm going to open it up now to  
17 public comment. As our city attorney has  
18 advised, we usually limit it to three  
19 minutes per person. And if there ends up  
20 being -- and, I, as the chair, going to  
21 say right now, if there ends up being  
22 excessive repetition in terms of  
23 articulated position and opposition, I'm  
24 going to ask that we try to keep it a  
25 little bit more concise in that regard.

1           So if you want to come up and express your  
2           public comment that would be great.

3           MR. BEINSTOCK: Good morning. Terry  
4           Beinstock, 2312 Bay Avenue, Sunset Island  
5           III.

6           Mr. Turchin, just so I don't repeat  
7           myself, 'cause I spoke last time, did you  
8           have a chance to review the tapes from the  
9           last meeting?

10          BOARD MEMBER TURCHIN: No.

11          MR. BEINSTOCK: So you've heard me  
12          speak before on many of these issues, so  
13          I'll try not to repeat things I know  
14          you've heard in other circumstances, but,  
15          you know, there's an old saying in the  
16          trial law business, which I've been a  
17          trial lawyer most of my career, you want  
18          people in the big lie, because the little  
19          details don't lineup. And that's what we  
20          have here. We have such misleading  
21          documents and such misleading proposals,  
22          Mr. Turchin just hit it right on the head  
23          when he said isn't this going to flood,  
24          because all these justifications of  
25          flooding are utter nonsense. We've lived

1           on these islands for over 30 years. Other  
2           people have here lived 30 years. We've  
3           never had a house flood ever. And that  
4           was before the road project, which is just  
5           being completed, that raised the elevation  
6           off our roads and put it on pumps on both  
7           islands. The odds of any of these homes  
8           ever flooding, even through all the  
9           hurricanes we've been through, is minimal.

10           Going up five feet is a design  
11           choice. That's what this is all about.  
12           We all know that's what this is all about.  
13           We all know you set it for summer meetings  
14           when no one is around, yet we've had the  
15           highest number of residents opposing this  
16           project in the history of our islands and  
17           we concerned it last time in the history  
18           of the DRB.

19           They came back and said, oh, you  
20           know, we've asked for the moon, we'll  
21           compromise on inches. Those inches, see,  
22           we're trying to compromise. It's  
23           nonsense.

24           When our residents looked at this  
25           they said nothing changed. We still

1           oppose it. In fact, more people now have  
2           filed opposition, residents than at the  
3           last meeting, because they got so incensed  
4           with these minor changes that is doing  
5           nothing, but creating a three-story home  
6           on islands that do not want it.

7                     Now, it's remarkable that we've had  
8           -- the last five years, we've probably had  
9           -- we have a 120 homes on the two islands  
10          and we've had about 18 homes replaced with  
11          new macmansions under the new code. It is  
12          remarkable that no one has seen necessary,  
13          not one developer has seen it necessary,  
14          not one architect has seen it necessary to  
15          build a three-story stilt house to prevent  
16          flooding. They've all managed. They've  
17          all managed with no problems, with no  
18          fights from the neighbors on the overall  
19          height, yet here we are.

20                    Let me say a few -- make a few points  
21           that I didn't make last go-around, because  
22           we're waiting to see what kind of changes  
23           came in.

24                    First of all, we have three air  
25           conditioned floors. Under code, that's

1 not just allowed. That's three floors in  
2 the house. The code does not say that you  
3 can have three air conditioned floors, so  
4 that's Number one.

5 Number 2 is the requirements of  
6 variance are so clearly not met here, I  
7 don't even know where to start. You can't  
8 grant a variance for design choices. You  
9 can't grant a variance unless it is makes  
10 -- the denial of it will make the house  
11 essentially unusable in any reasonable  
12 form. Nonsense. Eighteen homes have been  
13 built without any type of variances.  
14 They're totally unnecessary. These are  
15 design choices.

16 They want a three-story home, they're  
17 going to build a three-story home by hook  
18 or by crook, but let them build it  
19 somewhere else. We don't want them on our  
20 islands.

21 To say -- to come in here and say we  
22 need a three-story home, it will be the  
23 first one, not just in our neighborhood,  
24 but on the beach. We confirmed last time  
25 that it will be the first one on the beach

1           in a residential neighborhood.

2           If there's going to be some type of  
3           change to our code -- remember when they  
4           gave five-foot freeboard, they did not  
5           take other provision of the code that said  
6           it still has to be compatible with the  
7           neighborhood.

8           If they want to make such a  
9           fundamental change in the neighborhood,  
10          then we ought to do exactly what staff  
11          proposed. We ought to go back to the  
12          drawing board on the design review  
13          criteria and talk about a whole host of  
14          issues that are attendant to this, but it  
15          should not be done on a variance basis, on  
16          an ad hoc basis.

17          With that, I'm going to refer to some  
18          of my neighbors, who have specifics they  
19          want to address. Thank you very much.

20          ACTING CHAIR MS. PHANG: Thank you,  
21          Mr. Bienstock.

22          DR. BIERMAN: Good morning.

23          ACTING CHAIR MS. PHANG: Good  
24          morning.

25          DR. BERMAN: I'm Dr. Ann Berda

1           Berman. I live across the street on 1541  
2           West 22nd Street on Sunset IV. I've lived  
3           there with my husband for over 25 years.  
4           Currently, we don't have any flooding.  
5           We've had -- we've gone through this  
6           construction and raising up of the roads.  
7           We reviewed -- we were opposed to the  
8           original design. We reviewed the new one  
9           and we're still opposed to it. There's a  
10          variance requested. It's been minimally  
11          changed and their reasons for height  
12          limits and this doesn't qualify.

13                 We live next to a home where the very  
14          top story is a roof that extends to the  
15          edges of that second story. They can see  
16          over. They've waved to us. I'm concerned  
17          that this rooftop extends to the periphery  
18          and that needs to be brought in.

19                 Really, when you look at this, it's a  
20          three-story home. I know it's a two-story  
21          and it's a three-level building, but  
22          really when you live across the street  
23          it's going to be a three story.

24                 You know, the architect said out of  
25          character, and really this home is totally

1 out of character. We don't have stilts,  
2 as Terry Beinstock said, on our islands.  
3 Maybe in the keys they do. We don't need  
4 it here.

5 And I really request that the Board  
6 oppose the design, ask for the variance to  
7 be -- I ask for the variance to be denied  
8 and to move on, so we can look at a home  
9 that will really fit into the character --  
10 remember, it's a pre-1942 home and it's  
11 supposed to fit into the character of the  
12 neighborhood. And it does not. I request  
13 that you oppose it. Thank you.

14 ACTING CHAIR MS. PHANG: Thank you.

15 While we're waiting for the next  
16 public comment, I would say that the last  
17 time we were here, we did have a  
18 determination by staff and by our City  
19 attorney that this is not a three-story  
20 home. If it were, it wouldn't be here.  
21 And so under the applicable code, it's  
22 technically registering as two stories.  
23 So for purposes of that particular issue,  
24 the Board has already heard this. And we  
25 understand that that might be the



1           perception that it's three stories, but  
2           under current code, it's two stories.

3           Please, go ahead.

4           MR. TAYLOR: Good morning, Board  
5           members and staff. My name is Bill  
6           Taylor. I live on the east end of Sunset  
7           Island IV and I've lived there for  
8           26 years now. I've seen a lot of changes.  
9           A lot of them have been really, really  
10          good and there's been a few that haven't  
11          been. And I'm afraid that I would agree  
12          that this particular house, the way it has  
13          been designed and conceived will not -- I  
14          don't believe will benefit the  
15          neighborhood.

16          You know, I want to just follow-up on  
17          Terry's comment about the requirement for  
18          a variance. I really question requirement  
19          for a variance in this case. There's  
20          literally infinite number of ways this  
21          house could be designed without requiring  
22          any variance at all. And, you know, I  
23          would ask the architects and the owners to  
24          really study a few more of those things,  
25          come up with a few more ideas that didn't

1           press that and didn't force that. You  
2           know, it's done every single day. You'll  
3           probably review homes this afternoon that  
4           have done exactly, exactly that. We're  
5           asking them just to stay within the bounds  
6           of what the City has deemed to be the  
7           envelope for a home.

8                     And I'd love to speak to your  
9           comment. You know, after I was here at  
10          the last meeting, you know, there's a lot  
11          of numbers thrown around. And I'm an  
12          architect, I didn't even get all those  
13          numbers and really the scale of the house.  
14          So I did a little graphic that, if you  
15          don't mind, I'll be happy to share it with  
16          you all that really --

17                    ACTING CHAIR MS. PHANG: Do me a  
18          favor, there should be a traveling mike,  
19          if you want to keep on speaking. If not,  
20          then we can just wait till we look at it,  
21          whatever you want to do.

22                    MR. GONZALEZ: (Hanging).

23                    MR. TAYLOR: Thank you.

24                    And really what I was trying to  
25          represent here is what the -- what the

1 City's code actually says. And if you  
2 look at this little -- it looks like a  
3 little elevator here at the bottom of the  
4 sheet, that is by City's definition,  
5 that's when a floor becomes a story. When  
6 the ceiling of that approaches, approaches  
7 four feet above grade, that's deemed one  
8 story. And I really -- I ask you to take  
9 a look at this. I mean, I really feel I  
10 could make an argument that this house is  
11 a four-story house.

12 Now, you know, legally and any way  
13 you want to -- you know, we've heard from  
14 staff it's technically a two-story house,  
15 but visually any way you want to slice  
16 this, I believe this could be a four-story  
17 house.

18 So I would really ask you all, you  
19 know, to ask the designer and ask the  
20 owners to go back to the drawing board.  
21 There's a great potential there to do a  
22 100 other things and do something a little  
23 bit more respectful to the -- for the  
24 island and much more respectful to the  
25 City code itself.

1                   ACTING CHAIR MS. PHANG: Thank you.

2                   MR. TAYLOR: Thank you.

3                   MS. SENIS: Good morning. My name is  
4                   in Inga Lukzsa Senis. I've been here last  
5                   time. I wrote letters. I helped to  
6                   collect the signatures for the petition.  
7                   I've been living on the island for a long  
8                   time. I've been in Miami Beach for 20  
9                   years.

10                  I'm the neighbor that is apparently  
11                  not a neighbor because my property is less  
12                  than 10 feet. Well, this is a picture  
13                  from my roof from the first floor to the  
14                  neighbors across that is over 60 feet away  
15                  and I can see everything. So let's not  
16                  kid each other. My house is also built on  
17                  eight feet elevation, was rebuilt a few  
18                  years ago. It's also pre-'42 home. And  
19                  the reason we went only eight feet, it was  
20                  allowed back then, we didn't want to do  
21                  more, just not to climb stairs and it was  
22                  sufficient enough that the island was  
23                  never flooded.

24                  As you can see on the picture,  
25                  there's a giant house. Thanks to this

1 house, the code was changed and you cannot  
2 have roof deck from corner to corner  
3 anymore.

4 This is the house on 25th Street.  
5 This is the view from the top. If you try  
6 -- if someone is trying to say there is no  
7 privacy issues, sorry, my home, where I  
8 have double lot, not overbuilt, all the  
9 square footage, including second floor and  
10 the pool house, is under 30% of the total  
11 square footage of my yard, I will not have  
12 privacy in my home at all.

13 The applicant is claiming that he has  
14 sufficient setbacks. Well, from my side  
15 of the property, there's only 7.6 to the  
16 swimming pool. Then the terrace is kind  
17 of coming to the edge of the swimming  
18 pool, which is 10 foot, so really it's  
19 17-foot. The first seven-foot away from  
20 the swimming pool, the first five feet is  
21 an easement. That means he cannot plant  
22 any serious landscaping over there. It's  
23 just not up to the code.

24 That means not only privacy, but also  
25 noise. There is no buffer between not

1           only me, but another neighbor. That's  
2           Number 1.

3           Then really troubling is the  
4           renderings, the new renderings that are --  
5           I've been working as a model, and I know  
6           what is photo shop, and it's very easy to  
7           see how the house and renderings was  
8           vertically stretched by photo shot. So I  
9           brought the rendering from before. And if  
10          you would like to take the 16 inches away  
11          from it, I draw the orange line and you  
12          can see the difference. There's more than  
13          10 foot.

14          First of all, the house that was  
15          claimed to be 30 feet tall is really 28  
16          and it's in the City papers. Also, this  
17          roof is a peach roof that you should  
18          really take four feet away from it,  
19          because peach roof has additional four  
20          feet allowance. So let's not compare  
21          oranges with pears. Let's compare flat  
22          roof with flat roof and peach roof with  
23          peach roof.

24          Additionally, there is also the  
25          garage without the garage door, without

1           ability to park the car and it's called  
2           garage. There is four bedrooms on top we  
3           just heard today is for children, so that  
4           means this house is built for six people.  
5           Where will they park? I guess on  
6           neighbors' swale.

7           Also, I took some pictures of our  
8           neighborhood, so you can see for yourself  
9           how the neighborhood really looks, because  
10          the renderings are just a big lie. This  
11          is the street on 20th -- on Lucerne. I'm  
12          sure you have it in the new plans, the  
13          renderings, and you can see how different  
14          the renderings are from the existing home.  
15          If we have an existing home presented in  
16          completely different style and matter, not  
17          only is stretched and it looks huge that  
18          it's in reality not. And there's even  
19          adding landscape. It's not existing. I  
20          took this picture today. I print it at  
21          home. It's a big lie. I'm sorry, it's an  
22          insult to all of us.

23          This is another home next to this  
24          home, and it's me on this picture and you  
25          can see how big is this home. And this

1 home is lower by one foot by this home.  
2 This home is 27 feet and it's a peach  
3 roof.

4 So I have also pictures of few new  
5 constructions on our home -- on our  
6 island. This is 21st street. It's a  
7 house by Koby Karp. It's 32-foot high.  
8 It's built on eight feet. It's beautiful.  
9 And last two years, no one had to come in  
10 front of this Board and ask for craziness.

11 This is amazing house. Hibiscus.  
12 Just built. Gorgeous. No one would ever  
13 protest about normality.

14 The reason there's so many -- and let  
15 me tell you people are on holidays and  
16 other half of the house are rented, or for  
17 sale or under construction. Trust me, I  
18 mean, this petition just shows you how  
19 outrage we are.

20 This is pre-'42 home that's going to  
21 be demolished and one of the major  
22 criteria is compatibility. The applicant  
23 is claiming that it's caring so much about  
24 the neighborhood. It does not. This  
25 house does not fit for our size, for our



1 style, with our lifestyle.

2 So I'm really asking you let's just  
3 oppose to this and let's stop this fiasco,  
4 because it's just madness and craziness  
5 and we're going to suffer at the end. Not  
6 you.

7 BOARD MEMBER DELGADO: Could you pass  
8 your drawings so we can see them.

9 MS. BOUTSIS: Yeah, actually, since  
10 we -- I'd like to get a clear record.

11 MS. SENIS: I brought them last time.  
12 I just added two pictures that I took this  
13 morning.

14 MS. BOUTSIS: If you don't mind, I'd  
15 like to use it for the record.

16 MS. SENIS: Of course.

17 MS. BOUTSIS: So we have a complete  
18 record. I'll mark them one through  
19 whatever number there is.

20 MS. SENIS: One thing if I could just  
21 add --

22 MS. BOUTSIS: Just give me one more  
23 second just procedurally, and the other  
24 item from the other gentleman, who spoke  
25 earlier, we were going to enter that also

1           for the record.

2           MS. SENIS: One thing I'd like to  
3           add, the code was changed recently and the  
4           freeboard was added. The freeboard has  
5           scale 1 through 5, so that means they can  
6           add one. They can add two. They can add  
7           three. You don't always have to take just  
8           the maximum, especially if it's not  
9           needed. If you're adding maximum of  
10          freeboard, because you're afraid of  
11          flooding, why you have a ground floor  
12          that's going to be flooded?

13          Another thing we ask all over the  
14          neighborhood Bromelia, they were holding  
15          water. So you really want to build a  
16          house that's going to have swimming pool  
17          with all these mosquito issues and other  
18          issues that probably will come and occur  
19          in the future?

20          Please, I know for some reason you'll  
21          really like this project, but it's really  
22          against all the rules and all the  
23          criterias (sic), so please just don't  
24          approve it. Thank you.

25          ACTING CHAIR MS. PHANG: Great.

1 Any other public comment? Oh.

2 MR. NAYLOR: Good morning. Ken  
3 Naylor, 1616 22nd Street, where I've  
4 lived for three years with my family. I'm  
5 the adjacent neighbor to the Dwyers with  
6 over 120 feet of adjacent property line  
7 that's double the other adjacent neighbor,  
8 so I'm one of the -- the big, white old  
9 1940's house that Inga just showed a  
10 picture of.

11 I think the extent of my property  
12 line makes me the most impacted party by  
13 this application, and I'm speaking in  
14 support of it.

15 I watched the last meeting on video,  
16 and it wasn't our island's finest hour. I  
17 was dismayed that some of my neighbors  
18 expressed what staff called technically  
19 and legally inaccurate views of the city  
20 code. And based on those errant  
21 interpretations literally told this family  
22 to go back to Key Biscayne.

23 As a lifelong resident of South  
24 Florida and a 14-year resident of Miami  
25 Beach, I'm dismayed by the possibility

1           that sea level rise could prevent my kids  
2           from raising their families in South  
3           Florida. Designs like this give me hope  
4           for our future.

5           Resiliency is a good thing.  
6           Freeboard is a good thing. The floods  
7           aren't here yet, but go look at the  
8           seawalls at any King Tide and you can see  
9           that they're coming. No one should be run  
10          out of town for designing with freeboard  
11          and resiliency in mind.

12          Let's talk about what this design  
13          didn't do. They didn't install a big roof  
14          deck despite lots of fears of what you  
15          could see from the roof, if you were for  
16          some reason stand on it. They didn't max  
17          out the second floor space. They didn't  
18          max out their footprint. They didn't  
19          follow staff's alternative recommendation,  
20          which would be a 50% one-story lot --  
21          one-story house that would really have  
22          more of an impact on the neighborhood than  
23          what they've designed here.

24          Quite the contrary, this is a  
25          beautiful design that has many great

1 Florida design antecedents.

2 When viewed in totality, I believe  
3 it's a better design than the majority of  
4 the new houses being delivered in the  
5 neighborhood right now.

6 This was a thoughtful design out of  
7 the gate, and they've already made  
8 significant concessions. I hope you'll  
9 support it and welcome this family to  
10 Miami Beach. Thank you.

11 ACTING CHAIR MS. PHANG: Thank you.

12 Is there any other -- is there any  
13 other public comment for 2120 Lucerne  
14 Avenue?

15 Having no one step up to the podium,  
16 I'm going to turn it back over to Alfredo  
17 for your rebuttal at this time.

18 MR. GONZALEZ: Thank you, and I'll  
19 make it short and quick.

20 I know we've heard a lot of testimony  
21 on this case, and with all due respect to  
22 some of the neighbors, who are objecting,  
23 and I have no record of any new  
24 objections, just the same ones being  
25 repeated from last month. And everything

1           that was sent to me, there are no new  
2           property owners. They're the same ones,  
3           who having said their position last month,  
4           so it's not increasing.

5           Unfortunately, this is being heard in  
6           July, but we started working with staff in  
7           early fall last year trying to get to a  
8           project that we could get to the DRB. So  
9           we started with a much larger project and  
10          staff made many comments and we addressed  
11          in reducing the height -- I mean, reducing  
12          the density and we had other variances  
13          we're looking for, so we didn't mean to  
14          come in July, but we have worked almost a  
15          year on getting to a hearing.

16          This is a two-story house, and I  
17          appreciate the Chair clarifying that. I  
18          don't even know how to answer the  
19          allegations that this is a four-story --  
20          maybe a four-story house, but I'll just  
21          disregard that as a lot of puff and smoke.

22          There is no privacy issue. All the  
23          privacy issue has been raised and all of  
24          the examples that you saw from pictures  
25          that are a two-story house with a rooftop

1           addition. We purposely did not put a  
2           rooftop addition outdoor terrace on our  
3           second -- legal second floor. They want  
4           to think it's something greater than  
5           second floor. We did it. So the only  
6           terrace we have is in the interior facing  
7           south and it's lower than it would have  
8           been in a normal two-story house without  
9           the freeboard allowances.

10           I wanted to address one comment from  
11           Dr. Berman, who lives immediately to the  
12           north across the street at 1836 West 23rd  
13           Street. Talks about there being no step  
14           back. We have about actually on the  
15           second floor of our home is setback over  
16           16 feet from the first floor, not to  
17           mention we have about 30 feet off the  
18           property line. And there is zero outdoor  
19           area facing the north. You'll see in our  
20           plans there's green space. It's  
21           inaccessible. So we don't have any  
22           terrace that would even look towards the  
23           north.

24           Clearly the issue of variances have  
25           come up. This code -- and it happens, and

1 we see it, many examples of it, where the  
2 city addresses one section of the code and  
3 overlooks another section that has an  
4 impact on it. So when freeboard is  
5 approved at five feet, the issue of  
6 clearance underneath the first habitable  
7 floor was not looked at or amended.  
8 Actually, it may be in the future amended,  
9 and that's great. Hopefully that's been  
10 brought to the attention of staff, but  
11 it's a hardship that was not just  
12 self-created, but by the way the code and  
13 the lack of amending both sections of the  
14 code.

15 We do have compatibility. I know  
16 there's a lot of comments about  
17 compatibility, which is why all these  
18 privacy concerns that you've heard from  
19 all the neighbors, we limit to the outdoor  
20 terrace only on the first floor. And by  
21 having a one -- a two-story home instead  
22 of a one-story home, we reduce the lot  
23 coverage, so we don't get as close to the  
24 property line as we could. So we're  
25 setting it back even further, so concerns



1 of other neighbors who are not abutting,  
2 who live on the other side of the street,  
3 I mean, around the block, I know Inga  
4 lives around the block and she used  
5 examples of a two-story home and a rooftop  
6 second-story home that's across the street  
7 from her, that's closer than our property.

8 And let me see, make sure there's  
9 nothing else I wanted to point out.

10 So, at the end of the day, I think  
11 this Board needs to discuss and come to  
12 terms with whether freeboard is  
13 appropriate or not. And at the end of the  
14 day, the only difference approving  
15 freeboard at five on our compromise is  
16 three-and-a-half feet. That's what we're  
17 talking about. It's not talking about  
18 adding other story. It's not talking  
19 about adding 15 feet in height of the  
20 house. It's three-and-a-half feet is the  
21 exact distinction, 'cause by lowering the  
22 house a foot and a half in our compromise,  
23 we absorb the benefit of a foot and a half  
24 of that freeboard that you approve.

25 So with that, we're here to answer

1 any questions the Board may have.

2 ACTING CHAIR MS. PHANG: Great.

3 Thanks.

4 So we're going to switch it over to  
5 allow the Board to make comments and make  
6 inquires. Before we do so, do we have any  
7 Board disclosures? No? I do.

8 MS. BOUTSIS: If I can bring one  
9 thing to your attention in the proposed  
10 order, and Alfredo did bring this to my  
11 attention as well, it's on the 1, 2, 3, 4,  
12 5, the sixth page of the proposed order  
13 that they've handed out under general  
14 terms and conditions, Item 3, and it's  
15 Item E, and he made a modification.

16 I just want to go through the  
17 explanation of what he's trying to do. I  
18 didn't find a provision in the code, so  
19 ultimately it's your determination whether  
20 to accept this modification.

21 But what it is, is before this Board  
22 and HPB had the right to do variances,  
23 there was a provision, and we've been  
24 consistently have this in every single  
25 order that says this is a non-severable,

1 meaning if one condition is overturned on  
2 appeal, the whole order has to come back  
3 for you to take another look at it to see  
4 if there are any other conditions or  
5 concerns with the order.

6 You then got the power of variances.  
7 So the variances are in the same order.  
8 So what Alfredo is looking for is to have  
9 each portion of the order, meaning the  
10 variances be severable from the conditions  
11 of the design review. We've never done  
12 that for any other item. I can understand  
13 why it happens, because sometimes we do  
14 get an appeal.

15 For example, let's say there is a  
16 fence variance to allow a certain height  
17 for a fence. If that is appealed, it  
18 holds up the entire order for the design  
19 of the building and the construction of  
20 the building. But you need to think about  
21 whether you want to do that, in the sense  
22 if it's a variance integral with the  
23 design and it could affect the other  
24 conditions, do you want to make that  
25 modification now.

1                   Ultimately, I'm presenting it to you,  
2                   to the Board, it's not something we have  
3                   done before, I'm not necessarily opposed  
4                   to it, but if something is overturned on  
5                   the Court, think about what that means.  
6                   It would not come back to you, if you do  
7                   that severability.

8                   ACTING CHAIR MS. PHANG: Is that part  
9                   about inclusive of the idea that we can  
10                  address it once we have a vote on whether  
11                  the variances are being granted?

12                 MS. BOUTSIS: Yes.

13                 ACTING CHAIR MS. PHANG: 'Cause then  
14                 assuming arguendo, they're not given to  
15                 the applicant, then it can just be on the  
16                 design itself, so it might not be an  
17                 applicable carve out.

18                 MS. BOUTSIS: We wouldn't want to do  
19                 that I would think for any of the  
20                 conditions on the design.

21                 MR. GONZALEZ: And neither would we.  
22                 And we're not suggesting to. We were just  
23                 suggesting another --

24                 MS. BOUTSIS: I think I was clear.

25                 MR. GONZALEZ: And you were very

1 clear. And I've had this issue on other  
2 applications, so it's the left  
3 interpretation. You take two votes. So  
4 this is only intended if you approve both  
5 the variance and the design. In this  
6 scenario, you could argue that the house  
7 could still be built without the variance  
8 or vice versa -- well, not vice versa,  
9 but, I mean, it allowed for not having to  
10 tie up a design, so...

11 ACTING CHAIR MS. PHANG: I  
12 understand.

13 Again, before we go to Board comment,  
14 I want to make my disclosures. We  
15 received -- at least I received an e-mail  
16 from Alfredo on behalf of the applicant  
17 with clarity in terms of the application,  
18 but I also had a conversation with Dr.  
19 Berda Berman about the project as well and  
20 actually another resident who's not even  
21 here or a couple of residents from the  
22 island as well, who are in opposition to  
23 the application.

24 So that's my disclosures for purposes  
25 of today.

1                   So I'm going to turn it over to the  
2                   Board to allow them to inquire of the  
3                   applicant in terms of the project.

4                   MS. BOUTSIS: And to be clear, you  
5                   also have the petition signed that was  
6                   distributed on the dais, which is also a  
7                   disclosure.

8                   ACTING CHAIR MS. PHANG: And staff  
9                   forwarded all e-mail correspondence that  
10                  was received.

11                  MS. BOUTSIS: In the book attached  
12                  below.

13                  ACTING CHAIR MS. PHANG: Exactly.

14                  MR. MURPHY: And, you know, for the  
15                  record, I want to confirm the  
16                  interpretation that this is a two-story  
17                  home that is factually accurate as defined  
18                  by our code.

19                  And then also, with all the  
20                  discussion about freeboard, the staff  
21                  report and the analysis goes on about  
22                  establishing where this is. And in the  
23                  previous submittal, the slab of where a  
24                  person would stand on the first floor was  
25                  approximately 3'7" above maximum freeboard

1           in this revised scheme. It's nearly  
2           2 feet 10 inches above freeboard, and  
3           that's where a person can stand. So the  
4           discussion about maximum freeboard isn't  
5           really accurate, because they are going  
6           above that.

7           BOARD MEMBER TURCHIN: You're saying  
8           they're above how much above the maximum  
9           freeboard?

10          MR. MURPHY: The height of the first  
11          slab is 2'10" above maximum freeboard of  
12          five.

13          BOARD MEMBER TURCHIN: So is that the  
14          base flood plus the one foot the city is  
15          requiring plus four additional feet?

16          MR. MURPHY: That's correct.

17          BOARD MEMBER TURCHIN: Plus the  
18          additional --

19          MR. GONZALEZ: Can I clarify the  
20          misrepresentation by staff? Again, that's  
21          wrong.

22          MS. BOUTSIS: Well, hold on. I don't  
23          like the word "misrepresentation". That  
24          is their opinion.

25          MR. GONZALEZ: It's not --

1 MS. BOUTSIS: As planners, you can  
2 correct what you believe to be the correct  
3 answer, but it's not a misrepresentation.

4 MR. GONZALEZ: Will do.

5 According to conversation, slab is  
6 counted from the bottom of the slab.  
7 That's how we count height. Not from the  
8 top of the slab. Bring Tom Mooney, we've  
9 had this discussion. It's a neat  
10 conversation. When we count height, the  
11 24 feet of height starts from the bottom  
12 of your slab. Yes, Mr. Murphy, I suggest  
13 that you talk to Mooney, Mr. Mooney, who  
14 has clarified this point, and I'm happy to  
15 bring him down.

16 So, to be clear, from the -- you  
17 count the slab -- you count the height of  
18 the slab as part of your massing. So the  
19 bottom of our slab is 1 foot 1 inch from  
20 the freeboard. So we increase -- we go  
21 above freeboard 1 foot 1 inch. That's  
22 exactly what we go up. We were at 2'6".  
23 I understand the staff report is counting  
24 from the top of the slab, so you're  
25 counting the slab.



1                   MR. BELUSH: There's two things. The  
2 height -- the height from the underside is  
3 7'6 is measured to the underside of the  
4 slab. The height of the house is measured  
5 from the top of the slab. I think that's  
6 the confusion.

7                   MR. GONZALEZ: No, it's not. My 24  
8 -- our plans -- then, guess what, our  
9 house is even a foot lower. Under your  
10 interpretation, we start counting -- we  
11 count the 24 feet --

12                  MS. BOUTSIS: I'm sorry to interrupt  
13 you. I called Tom Mooney down. He's on  
14 his way down, he can address that  
15 directly.

16                  ACTING CHAIR MS. PHANG: Let's let  
17 Mooney address that. Is there anything  
18 you want to do in terms of your rebuttal  
19 before we ask Board questions?

20                  MR. GONZALEZ: No, we can answer --  
21 clarify this question when Mr. Mooney is  
22 here. I'll answer any questions the Board  
23 may have.

24                  ACTING CHAIR MS. PHANG: The Board is  
25 ready to ask questions.

1                   Please ask away, Mr. Turchin.

2                   BOARD MEMBER TURCHIN: The whole  
3                   issue comes here with the new issue of  
4                   freeboard. We had a house here on Prairie  
5                   Avenue last year, beautiful, one-story  
6                   house that was ultimately pulled and  
7                   denied from the Board, similar design.  
8                   Remember that one, James, beautiful  
9                   design, very similar.

10                  MR. MURPHY: It was on Meridian.

11                  BOARD MEMBER TURCHIN: Tried to  
12                  accomplish the same thing, raised the  
13                  house up, didn't become compatible in the  
14                  neighborhood, because it was up on stilts,  
15                  but they designed a one-story house  
16                  instead of putting a two-story house on  
17                  top of the platform.

18                  Todd Glazer did a great house over  
19                  where Cherokee is it? Is that the one he  
20                  did? Similar house, recently brought it  
21                  up to freeboard, built a one-story house  
22                  and it was compatible in the neighborhood.

23                  I think the real issue comes here is  
24                  compatibility. Your client is concerned  
25                  and wants to build a new design house with

1 a complete floating house to benefit new  
2 architectural designs, but you're asking  
3 to raise it a substantial amount and then  
4 put a two-story house on top of it.

5 Has any thought been considered on  
6 taking this design, taking the top floor  
7 off and building a great one-story house  
8 floating above it?

9 And would it be more compatible  
10 instead of adding a 30 -- how tall is it,  
11 30, when we're all done here -- 38 feet,  
12 34 feet, 37 feet?

13 MR. GONZALEZ: Thirty-five feet.

14 BOARD MEMBER TURCHIN: Thirty-five  
15 feet, 'cause it says 37 on here.

16 Is any consideration ever been to do,  
17 design a one-story house?

18 MR. GONZALEZ: Yes, there has been.  
19 I'll let the architect get into more  
20 detail, but to be clear, the reason we  
21 feel that a two-story house, and just as  
22 the neighbor most affected said, he'd  
23 rather have a smaller footprint.

24 BOARD MEMBER TURCHIN: Forget the  
25 smaller footprint. We're talking about

1 compatibility here right now.

2 MR. GONZALEZ: It is compatibility.  
3 With compatibility, we're talking --

4 BOARD MEMBER TURCHIN: It's not  
5 compatible.

6 MR. GONZALEZ: It is actually --

7 BOARD MEMBER TURCHIN: In your  
8 opinion. And ultimately it's going to  
9 become this Board's opinion whether it's  
10 compatible.

11 MR. GONZALEZ: Exactly. I agree with  
12 that, Mr. Turchin.

13 I want to be clear that the two  
14 houses abutting this property already over  
15 30 feet NGVD. I know there's some--

16 BOARD MEMBER TURCHIN: You're at  
17 37 feet, okay? You're not 30.

18 MR. GONZALEZ: Thirty-five.

19 BOARD MEMBER TURCHIN: And those are  
20 two houses --

21 MR. GONZALEZ: Thirty-five. We have  
22 a sky light that goes two feet and a small  
23 little piece. So the actual perceivable  
24 hi on the second floor is a 900-square  
25 foot second floor.

1                   So under the compromise --

2                   BOARD MEMBER TURCHIN: So I'm asking  
3                   the architect, his client, have you  
4                   designed a one-story house with the same  
5                   design with the larger footprint and  
6                   submitted it to your client?

7                   MR. FORT: No.

8                   BOARD MEMBER TURCHIN: Why wouldn't  
9                   you consider all options?

10                  MR. FORT: Because I disagree with  
11                  your interpretation that a single-family  
12                  home is compatible with the neighborhood.

13                  And I'd like to make clarification to  
14                  what Mr. Murphy said about the house being  
15                  above freeboard.

16                  If we brought the house down to the  
17                  13-foot NGVD freeboard height and the yard  
18                  elevation being at 6'7", then we'd like  
19                  only have 6'5 underneath the home, just to  
20                  be clear. We're going to the minimum yard  
21                  elevation of 6'5 elevation and. That  
22                  forces the first slab of the home to be  
23                  above the freeboard of five feet above  
24                  base flood elevation. So that is not a  
25                  misrepresentation of --

1                   BOARD MEMBER TURCHIN: Is your client  
2 here?

3                   MR. GONZALEZ: Yes.

4                   BOARD MEMBER TURCHIN: Where is your  
5 client?

6                   MR. DWYER: My name is Patrick Dwyer.

7                   BOARD MEMBER TURCHIN: You know,  
8 there's been some -- I don't know if  
9 you've ever looked at them. I understand  
10 what you're trying to achieve in the  
11 design. I like it, except that the whole  
12 neighborhood is opposed to compatibility.  
13 We've had numerous letters written, a  
14 barrage of them.

15                   And in your quest to get this house  
16 approved, there's been some really good  
17 designs of the same architecture making it  
18 one story. And I'm just asking the  
19 question should you explore it and you  
20 might get overwhelming support versus  
21 objection.

22                   MR. DWYER: John, with all due  
23 respect, so I don't live on the island  
24 today, right, so I'm at a little bit of a  
25 disadvantage. And the silent majority is

1 not opposed to this house.

2 The gentleman over there, Mr.  
3 Bienstock, who is leading the crusade  
4 against me, I was at a friend of mine's  
5 house on Key Biscayne, who's an attorney,  
6 and I showed his wife the design of our  
7 house. And his wife is on this committee  
8 on Key Biscayne. And she said we're about  
9 to change the code, because we're going to  
10 have all the houses elevated on Key  
11 Biscayne, because we're trying to follow  
12 the lead of Miami Beach.

13 And, ironically, my friend asked me,  
14 well, who is opposing you? I said Terry  
15 Bienstock. And he told me that he  
16 represented Terry in suing his next door  
17 neighbor and he kind of turned cream when  
18 I said that.

19 BOARD MEMBER TURCHIN: Terry is not  
20 the only one opposing it.

21 MR. DWYER: I understand.

22 BOARD MEMBER TURCHIN: We've had I  
23 don't know how many letters in opposition.

24 MR. DWYER: I appreciate that, but  
25 this house -- and I'm surprised about this

1           is what house are going to look like on  
2           barrier island.

3           BOARD MEMBER TURCHIN: We're not on a  
4           barrier island. There's not one house  
5           built around you that's trying to  
6           achieve -- I'm just saying, I like -- I  
7           like the design. What I don't like is the  
8           second floor. And I'm asking you maybe to  
9           consider --

10          MR. DWYER: I have four children.

11          BOARD MEMBER TURCHIN: I know you  
12          have four children. And you know  
13          something--

14          MR. DWYER: They're not going to be  
15          living in this house.

16          BOARD MEMBER TURCHIN: You could take  
17          that same design and design it as a  
18          one-story structure and get accomplished  
19          the same design in a beautiful floating  
20          house.

21          MR. DWYER: My four kids hopefully  
22          will not be living with me. That's the  
23          plan. That's why their bedrooms are so  
24          small. They'll just be coming back from  
25          time to time.



1                   BOARD MEMBER TURCHIN: I'm just  
2 asking will you consider it?

3                   MR. DWYER: No.

4                   And the second floor --

5                   BOARD MEMBER TURCHIN: You know,  
6 that's an uncompromised position that you  
7 wouldn't consider the design of it.

8                   And I think as the architect, you owe  
9 it to your client to give him an option of  
10 a different design.

11                   There's been -- I don't know if  
12 you've seen the houses, but maybe you can  
13 consult with Mr. Glazer. He did a  
14 beautiful house. Had the same situation  
15 on Cherokee Avenue. It's a gorgeous house  
16 today. And it's compatible, it fit into  
17 the neighborhood, he raised it up, great  
18 architecture and it's worth a lot of money  
19 today and he didn't have one bit of  
20 opposition from any neighbor.

21                   MR. GONZALEZ: With all due respect,  
22 Mr. Turchin, I understand your position,  
23 but let's be clear, I understand that  
24 there is some opposition. There was 22  
25 letters sent in opposition. There was

1           also over eight sent in support. And most  
2           of the -- most of the letters in  
3           opposition are led by a few residents, who  
4           keep alleging that privacy and  
5           compatibility are the issue, when we have  
6           purposely not put any additional -- where  
7           the code allows us to propose a rooftop  
8           terrace over the second floor, we didn't,  
9           because if we had, I would agree with you.

10           BOARD MEMBER TURCHIN: You still have  
11           to get it by this Board.

12           MR. GONZALEZ: I understand that.

13           BOARD MEMBER TURCHIN: So you're  
14           sitting here saying what you did not and  
15           didn't do.

16           The City's opinion right now is  
17           they're not supportive of your project.  
18           So when you say the rest of the public is  
19           in support, the city and the staff is not  
20           in support of this project.

21           MR. GONZALEZ: And that's fine.

22           BOARD MEMBER TURCHIN: Read your  
23           comments, they're saying to deny it.

24           MR. GONZALEZ: And, quite frankly,  
25           we've been here on this Board -- on this

1 Board and many other boards where staff is  
2 sometimes -- we agree with staff. The  
3 Board disagrees with staff in many cases.  
4 Staff is not the end of design process in  
5 the City of Miami Beach. This Board is.  
6 So that's one factor to take into account.

7 We have -- we believe that this house  
8 is compatible with the neighborhood,  
9 because it's on a corner, because of two  
10 houses next to it already over 30 feet  
11 NGVD, taking --

12 BOARD MEMBER TURCHIN: We know you  
13 think it's compatible. Let this Board  
14 have a discussion about it, okay?

15 ACTING CHAIR MS. PHANG: Great.

16 Mr. Bodnar, give me one second,  
17 'cause Mr. Mooney is here and I know that  
18 we kind of tabled that specific issue, so  
19 I'm going to turn over the meeting to Mr.  
20 Mooney.

21 Good morning.

22 MR. MOONEY: Good morning. The whole  
23 meeting, huh?

24 ACTING CHAIR MS. PHANG: The whole  
25 meeting. You can run the whole thing.

1 I'd like to go get a martini now, but go  
2 ahead.

3 MR. MOONEY: Just to clarify any  
4 confusion, and I didn't mean there to be  
5 any confusion among the applicant or  
6 staff, but in accordance with the code,  
7 overall height is measured from base flood  
8 elevation plus maximum freeboard.

9 So that means if somebody has put  
10 their first habitable floor at maximum  
11 freeboard or above, that's where we would  
12 measure height from.

13 So if somebody puts their first  
14 habitable floor at base flood plus five,  
15 we'll start measuring from base flood plus  
16 five. If they put it base flood plus  
17 eight, we'll still measure it from base  
18 flood plus five. They can up their floor  
19 as they see fit, but the overall height  
20 will still be measured from base flood  
21 plus five. And the maximum height is  
22 measured to the underside of the top of  
23 the highest slab.

24 MR. GONZALEZ: The underside.

25 The question we had, Tom, and this is

1           where I think that there's a confusion,  
2           all the plans submitted and the  
3           discussions are the slab starts at 1 foot  
4           1 inch above freeboard and then you start  
5           -- you know, you start the house. 1 foot  
6           1 inch comes off our 24 feet. Don't  
7           dispute it. But we're not -- there's a  
8           suggestion that we move the house 3,  
9           4 feet above freeboard.

10                 We actually -- the slab, if you count  
11           the slab, then you get to two-and-a-half  
12           feet, actually 2 feet 7 inches, but if you  
13           don't count the slab, because -- from the  
14           outside of the house, it's the exterior  
15           and that's how all our drawings are.

16                 MR. MOONEY: So the distance between  
17           the top of your slab, which is where you  
18           would normally measure height from if you  
19           were at freeboard and maximum freeboard of  
20           five feet is 2 feet 10 inches. So you did  
21           put your slab, the top of your slab 2 feet  
22           10 inches above maximum freeboard.

23                 MR. GONZALEZ: But when we discussed  
24           it, you counted at the bottom of the slab,  
25           so we're not counting -- so we're starting

1 to count below the first slab?

2 MR. MOONEY: No, we're counting from  
3 freeboard. From -- the overall height is  
4 measured from base flood plus maximum  
5 freeboard, so your maximum freeboard is  
6 five feet. That's where we would measure  
7 the height from.

8 You've chosen to put your first  
9 habitable floor 2'10" above maximum  
10 freeboard. So the overall height is still  
11 measured from maximum freeboard.

12 MR. GONZALEZ: No, no, the overall  
13 height, I have no issue with.

14 The only thing, and clarification  
15 that we kept going back and forth, and  
16 maybe there's a misunderstanding and I can  
17 respect that, because I asked the  
18 question, was that the slab itself, the  
19 bottom of the slab to freeboard is 1 foot  
20 10 inches. That is undisputed. It's in  
21 our plans, 1 foot 10 inches. So we raised  
22 our house 1 foot 10 inches, the slab, to  
23 get to the clearest, yeah, the bottom of  
24 the slab. If staff wants --

25 MR. MOONEY: How thick is your slab?

1                   MR. GONZALEZ: A foot. That's how  
2                   you get to -- so if you count from the top  
3                   of the slab --

4                   MR. BELUSH: Right, if you're  
5                   building a house to base flood plus  
6                   minimum floorboard, that requirement is --  
7                   for example, if BFE is 8 and minimum  
8                   floorboard is one, the minimum elevation  
9                   of nine feet is to the top of your slab by  
10                  building code. You can't -- it doesn't  
11                  require you to go above that. Like if you  
12                  just come in, want to build minimum  
13                  requirement, it's BFE plus one. It  
14                  doesn't say you have to raise the bottom  
15                  of the slab to BFE plus one. That's the  
16                  top of the slab.

17                  MR. GONZALEZ: So we've created  
18                  1 foot 1 inch -- raised it 1 foot 1 inch  
19                  to give us a 7'6 clearance underneath the  
20                  first floor from the bottom of the slab.

21                  BOARD MEMBER CAMARGO: It's not the  
22                  bottom. That's what he's clarifying.

23                  MR. GONZALEZ: I know. He's  
24                  clarifying now that -- when I had this  
25                  discussion, we were talking about the top

1 of the slab, so -- but, regardless, we do  
2 need the 7'6 underneath the house.

3 MR. BELUSH: I think, just to  
4 clarify, part of the reason why this code  
5 is put into effect is for the areas where  
6 they're required to be at base flood  
7 elevation plus freeboard and that  
8 elevation was much higher than the street  
9 elevation.

10 So if you're required -- for example,  
11 if you have a street elevation of, say,  
12 three and the base flood elevation plus  
13 freeboard is 10 feet, that has a  
14 requirement of about 7 feet. So  
15 regardless of what the owner wants to do,  
16 they have to build to that level. So  
17 that's why this code was initially put  
18 into place to allow somebody who has to go  
19 to that level, that they have some sort of  
20 use of this space below.

21 In this case -- we modified the code  
22 last year, a year before that, because we  
23 put in the BFE plus five. So in that  
24 case, somebody wasn't required to go to  
25 BFE plus five, but they may decide to go



1           to that level. In that case, we took out  
2           the requirement that the height had to be  
3           at least 6' above the street elevation.

4           So we modified that code  
5           understanding that if somebody is building  
6           to base flood plus five, they would have  
7           this space under the building that they  
8           would be able to use. It was sort of  
9           intended for the same instance where you  
10          have same elevation higher than the  
11          street.

12          In this case, that condition doesn't  
13          actually exist. They're going beyond --  
14          beyond the base flood plus five to create  
15          that -- to create that understory above  
16          the minimum habitable floor.

17          That was part of our reason we  
18          brought this to the attention last month,  
19          you know, the Board could say we don't  
20          feel this is appropriate location to have  
21          this understory, because the maximum  
22          clearance doesn't have to be so excessive  
23          that you naturally have this area under  
24          the building.

25          MR. MOONEY: Alfredo, let me just add

1 to that real quick. Sorry.

2 Michael is correct, when the  
3 ordinance that established the minimum  
4 clearance or the maximum clearance of 7'6  
5 was first put in the code in 2014. It was  
6 done to accommodate a very small area of  
7 the city, primarily the west side of Palm  
8 and Hibiscus, because that was the lowest  
9 area of the city and at the time you were  
10 required to build at base flood elevation  
11 and in that area base flood elevation  
12 often times was well above six feet above  
13 grade. So you were going to create either  
14 a mountain to put your home on or you were  
15 going to create a very large gap between  
16 grade and your first habitable floor.

17 So the thought was, rather than  
18 forcing people to use an excessive amount  
19 of fill and creating a mountain that they  
20 be allowed to utilize that space, if the  
21 required height is more than six feet  
22 above, but at the time the Commission  
23 wanted to limit that height to 7-foot 6,  
24 so that it didn't become an excessive  
25 amount of space and begin to look like an

1 excessive three-story home. In the end,  
2 it looks like a three-story home. There  
3 is no way around it. And it's through no  
4 fault of the owner.

5 When the code was changed two years  
6 ago to incorporate a freeboard requirement  
7 of one foot and then set a maximum  
8 freeboard of five feet that somebody could  
9 utilize, we had to modify that section of  
10 the code, because that change in the code  
11 allowed people to put their first  
12 habitable floor at base flood plus up to  
13 five feet of freeboard.

14 When somebody chooses to do that,  
15 which they have a right to do, you're  
16 going to create a gap that's going to look  
17 like a third floor. And there's nothing  
18 that anybody can do about that.

19 So, in this particular instance,  
20 because the code limits that non-air  
21 conditioned space to 7'6, we were not  
22 comfortable in recommending in favor of a  
23 variance. That's more of policy decision  
24 we think that needs more thought as to how  
25 that floor that's composed of non-air

1           conditioned space should be addressed  
2           moving forward. So I think that a lot of  
3           the discussion here about whether or not  
4           it's 2'10 above base flood plus maximum  
5           freeboard as measured to the top of the  
6           slab or 1 foot 10, as measured from the  
7           bottom of the slab, it's imperceptible in  
8           terms of the appearance of the house,  
9           because if they don't get their variance,  
10          they can still modify their yards and  
11          create a 7'6 space, the exterior of their  
12          home is going to look the same.

13                 MR. GONZALEZ: Let me clarify one  
14                 thing, and I don't disagree, Mr. Mooney.

15                 The 7'6 clearance is what we're  
16                 trying to achieve, 'cause without a 7'6  
17                 clearance, a minimum of 7'6 clearance  
18                 under the first habitable floor, then  
19                 we're regulated to doing a mound, which,  
20                 by all accounts, everyone doesn't want to  
21                 see a house on a mound.

22                 Variance aside or not aside, all the  
23                 entryway, the driveway, all those areas  
24                 are limited to 7'6 in our proposed plans.  
25                 So we did have to raise the house above --

1           and we don't dispute we raised the house  
2           above BFE five flood to get to 7'6, but we  
3           didn't raise the overall height. We kept  
4           taking from the interior of the home. So  
5           we're not asking -- we didn't ask for let  
6           us ask for height variance to makeup that  
7           difference. We sacrificed the interior of  
8           the home, the height of each floor  
9           floor-to-ceiling height to get us to allow  
10          us to have 7'6. We've already testified  
11          even at 7'6, we're regulated to a  
12          seven-foot door entryway to the house.

13                 ACTING CHAIR MS. PHANG: So if we  
14          don't have anything further from Mr.  
15          Mooney, I think that we'll thank him for  
16          his time, wish him for a happy Friday and  
17          then move on is what we'll do.

18                 Thank you, Mr. Mooney. Happy Friday.  
19          When you're watching us, we'll smile.

20                 Mr. Bodnar, I know we interrupted you  
21          before. You wanted to make some inquiries  
22          of the applicant.

23                 MR. BODNAR: Thank you.

24                 Could you clarify the hardship of the  
25          variance?

1 MR. GONZALEZ: Yes, the hardship of  
2 the variance is the fact there's an error  
3 in the code. The code has not been  
4 adapted to freeboard five. As Mr. Mooney  
5 just said, the freeboard -- the clearance  
6 of 7'6 was adopted prior to freeboard  
7 five. It may be now corrected in the  
8 future, but we're faced with the issue of  
9 dealing with the code as it is now. It's  
10 an inconsistency. It creates a -- 'cause  
11 if we didn't have that clearance and we  
12 start creating problems with the access  
13 underneath the house.

14 MR. BODNAR: My understanding, the  
15 variance is only in a specific area below  
16 the first floor, which is wanting to be  
17 increased in height by going down to make  
18 it more usable.

19 MR. GONZALEZ: Correct. As part of  
20 the compromise, we took away -- we  
21 proposed taking away the 1'6 inches  
22 height, which did bring us to 24 feet. By  
23 eliminating that, we asked to go -- shift  
24 it over to two feet down where it would  
25 impact no one. It wouldn't impact the

1 neighbors. It would just allow more of a  
2 breeze through the area under that portion  
3 of the house, which is all open, not  
4 enclosed.

5 MR. BODNAR: So there is no hardship  
6 to lower that space for the need. Could  
7 you use the space for seven-foot height  
8 instead of nine?

9 MR. GONZALEZ: I can't tell, you  
10 know, but I could tell you the hardship I  
11 still think is justified under the -- the  
12 confusion of the code. The code has --  
13 and the code may be clarified at one point  
14 and this variance may not be needed, but  
15 at this point the code -- the clearance  
16 issue underneath the first habitable floor  
17 has not been addressed. So, I mean -- and  
18 we did reduce the foot and a half above,  
19 so I agree with you, the original  
20 hardships of the door, we're living with a  
21 lesser entrance and impacting cars that  
22 could park under the house and now we've  
23 accepted that, so those issues are off the  
24 table. It's that under space.

25 MR. BODNAR: So the first floor --

1           and, James, maybe you could help me with  
2           this, the first floor is not required to  
3           be at the top of the freeboard? It could  
4           be higher?

5           MR. GONZALEZ: Sorry. What? I  
6           apologize.

7           MR. BODNAR: You have your top of  
8           your first floor slab at approximately  
9           2'10 above the 5' freeboard.

10          MR. GONZALEZ: Correct.

11          MR. BODNAR: Is it permitted, James,  
12          that you could put your first floor at any  
13          level above freeboard?

14          MR. BELUSH: The code allows that,  
15          but it's still subject to review by DRB.  
16          For example, they could technically do a  
17          -- raise that freeboard another 10. We're  
18          still going to measure the overall height  
19          from the base flood plus five, but if that  
20          creates an overwhelming, you know,  
21          understory, that is something that's under  
22          the purview of the DRB to review.

23          MR. GONZALEZ: Right. Once we go an  
24          inch above, you know, any type over  
25          freeboard -- let's assume for a second the



1 Board approves freeboard at five, so you  
2 have BFE, which is eight, plus freeboard  
3 of 5, 13, 13 is the level where you start  
4 counting the height of the house, 24 feet.  
5 So regardless of whether my slab moves up  
6 or down, and in this case we would argue  
7 the top of the slab is up to 2 feet  
8 6 inches, 7 inches, that is cutting into  
9 the overall height permitted. So it's not  
10 raising -- it has zero impact -- actually,  
11 if we -- by allowing that 7'6 clearance,  
12 we eliminate the need for a mound, because  
13 if we didn't raise the house at 2'7, and  
14 put it just at BFE, we would be -- we  
15 couldn't have an entryway door underneath  
16 the house. We couldn't park cars. So  
17 we'd have to design a completely enclosed  
18 garage outside that footprint and we would  
19 have to have a mound with steps going up  
20 to the first habitable floor. So this was  
21 the design that we thought would compact  
22 the footprint of that lot and the use of  
23 that lot.

24 And I understand, you know, the  
25 differences between that and one story,

1           which has a greater lot coverage, but I  
2           hope -- does that answer your question?  
3           Thank you.

4                     BOARD MEMBER TURCHIN: (Inaudible).

5                     ACTING CHAIR MS. PHANG: Annabel, do  
6           you have any questions? We're going to  
7           start wrapping up on the application,  
8           'cause it's 10:00 o'clock, so...

9                     MR. MURPHY: I would just like to  
10          bring to the Board's attention, you know,  
11          the fundamental things that you are tasked  
12          with. One, is approving the variance.  
13          Two, is approving the design review.

14                    There's no discussion about you  
15          approving freeboard or where the maximum  
16          or the minimum amount of freeboard that  
17          the applicant chose to pour at. That's  
18          not for discussion. You could discuss the  
19          levels of the home. You could discuss the  
20          massing. But in terms of where the  
21          applicant chose to go above freeboard, you  
22          can begin discussions on, but we cannot  
23          limit or regulate where an applicant  
24          chooses to address resiliency in terms of  
25          BFE plus whatever their freeboard is.

1                   If you need further clarifications,  
2                   we're happy to clarify.

3                   BOARD MEMBER TURCHIN: Is this 2 foot  
4                   10 higher than freeboard?

5                   MR. MURPHY: The top of the first  
6                   floor slab is 2'10 higher than maximum  
7                   freeboard, yes. That's more evidenced on  
8                   page 15.

9                   BOARD MEMBER CAMARGO: And to  
10                  (inaudible) approve this or not.

11                  MR. MURPHY: As discussed in June,  
12                  you could request them to lower that.

13                  MR. GONZALEZ: And we did. For the  
14                  record, we lowered it out of this 2'10  
15                  inches that we're talking about -- I mean,  
16                  I understand the clarification that Mr.  
17                  Murphy made the discussion is not whether  
18                  you're really freeboard or not, it's above  
19                  freeboard.

20                  So we are you want to say the top of  
21                  the slab at 2'10, but being at 2'10, we  
22                  also lowered the overall height of the  
23                  house by a foot six to try to minimize --

24                  BOARD MEMBER CAMARGO: I understand  
25                  that part.

1                   My question is, does that constitute  
2                   a variance, James, or that's -- what  
3                   category of request is that?

4                   MR. MURPHY: It's my opinion that the  
5                   two are independent.

6                   BOARD MEMBER CAMARGO: Okay.

7                   So the variance they're requesting is  
8                   to have the nine-foot clearance in the  
9                   part of the ground floor space, correct?

10                  MR. MURPHY: Correct.

11                  BOARD MEMBER CAMARGO: That's the  
12                  only variance that they're applying for?

13                  MR. MURPHY: Correct.

14                  BOARD MEMBER CAMARGO: 'Cause I think  
15                  we're going back and forth in all  
16                  different issues and we are losing track  
17                  of what is being requested. Thank you.

18                  MR. MURPHY: Correct. I've actually  
19                  dogged ear your pages 13B and 15, because  
20                  I think they're the most significant  
21                  diagrams of the package.

22                  In 13B, you clearly see the  
23                  applicant's request, which is the variance  
24                  portion. And clearly you see -- oh, I'm  
25                  sorry.

1                   ACTING CHAIR MS. PHANG: 13B as in  
2                   boy?

3                   MR. GONZALEZ: AO13B.

4                   ACTING CHAIR MS. PHANG: And A015

5                   MR. GONZALEZ: And A, which is before  
6                   and after.

7                   MR. MURPHY: So 13B shows the  
8                   variance request as modified from the  
9                   June. And you see that that variance  
10                  request, which is to exceed the clearance  
11                  of that subsection of the code that limits  
12                  the area underneath the first floor slab  
13                  to 7'6, you see that they're asking it to  
14                  go to 9'6, but by doing so, they're  
15                  quote/unquote internalizing it, meaning,  
16                  they're going down, not up. And it could  
17                  be argued that it's not visible.

18                  Then when we go to page 15, you see  
19                  inadvertently, but not tied to the  
20                  ramifications of that and the applicant's  
21                  decision to pour the first floor greater  
22                  than what the code already identifies as  
23                  maximum freeboard.

24                  So, again, those two illustrations  
25                  for me are the most informative in making

1 an analysis.

2 BOARD MEMBER DELGADO: So, according  
3 to what Mr. Mooney said, it's freeboard,  
4 top of freeboard, is where you measure --

5 MR. MURPHY: Height is measured from  
6 base flood elevation plus freeboard.

7 BOARD MEMBER DELGADO: Plus  
8 freeboard.

9 MR. MURPHY: Freeboard being the  
10 variable that the designer choose --

11 BOARD MEMBER DELGADO: Right.

12 MR. MURPHY: -- that's a minimum of  
13 one to maximum of five. Whatever datum  
14 point --

15 BOARD MEMBER DELGADO: So what he  
16 said, you measure base flood plus five,  
17 that's your datum for measuring the height  
18 of the building.

19 MR. MURPHY: If the applicant is --  
20 if the designer is pouring their first  
21 floor at BFE plus five or higher, that  
22 becomes the measuring point.

23 So the applicant is pouring their  
24 first floor slab greater than BFE plus  
25 five, but the measuring point goes down to

1 BFE plus five.

2 MR. BELUSH: Right, we're measuring  
3 the height to BFE plus five.

4 BOARD MEMBER DELGADO: So in that  
5 case, the height of the building they're  
6 proposing is around 24 feet, 24'6.

7 MR. MURPHY: No.

8 BOARD MEMBER DELGADO: 22'6.

9 MR. GONZALEZ: Madam Delgado, no, it  
10 is not. It is -- the house is at eight,  
11 which is BFE, plus five, which is at 13.  
12 So at 13, then you can go up -- you start  
13 counting that 24 feet. So we have removed  
14 a foot and a half of that, so it comes out  
15 to about -- if you count all three points  
16 about 26, but I wanted to be clear that  
17 the moment we cross, regardless of what's  
18 there, whether it's underneath the first  
19 floor, whether it's a slab, whether it's  
20 the first floor, once we hit 13, which is  
21 BFE and flood, the clock starts on that  
22 20-foot height max.

23 MR. BELUSH: Right, even if you  
24 lowered it, even if you lowered the first  
25 floor slab, you can lower it as much as

1           2'10 inches, the top slab will stay the  
2           same, 'cause the height is measured from  
3           the BFE plus five.

4           BOARD MEMBER DELGADO: So, to me, the  
5           merit of this discussion is whether the  
6           ground floor is habitable or is it  
7           (inaudible).

8           And, in my opinion, I see -- I  
9           appreciate the resiliency that this  
10          project is bringing. And I actually also  
11          appreciate the fact that they compacted  
12          the floor footprint and they've sunk the  
13          second floor into the ground floor, so it  
14          projects up from the second floor just  
15          from the window sills up.

16          So I think there's been a lot of  
17          effort in this project to be compatible  
18          with the neighborhood. I think the  
19          compacted footprint, if we do that  
20          diagonal view, is less intrusive from the  
21          setbacks than if the footprint of the  
22          floor plate was bigger.

23          So, you know, I am in favor of this.  
24          And I think if they choose to have the  
25          swale that is within their property flood



1           and the King Tide, it's their prerogative.  
2           The main floor of the house is really  
3           resilient.

4                     So I do see a lot of merit in this  
5           application. That it looks like it's a  
6           ship that landed from somewhere on stilts,  
7           it does, but I -- you know, that's -- it  
8           is a -- that is a style debate, which is  
9           not what we're here for.

10                    I think the massing and the scale  
11           seems to me to be compatible with the  
12           neighborhood.

13                    ACTING CHAIR MS. PHANG: Mr. Bodnar.

14                    MR. BODNAR: Perhaps another question  
15           for James.

16                    When we measure the 7'6 clear, which  
17           is the maximum allowable you're allowed  
18           below your first floor, the distance  
19           between the 7'6 and the top of the first  
20           floor can be any number?

21                    MR. GONZALEZ: You don't count the  
22           slab.

23                    MR. BODNAR: That fills the slab?  
24           What's being called a slab here is not  
25           just a slab, but interstitial space below

1           the slab for mechanical and wiring,  
2           correct? By dimension isn't just slab,  
3           but it could be much greater depending  
4           upon the functional needs?

5           MR. MURPHY: Well, no, the code  
6           limits the maximum area ceiling clearance  
7           of 7'6 from the lowest level slab  
8           provided.

9           MR. BODNAR: Repeat that, please.

10          MR. MURPHY: Page 11, the height of  
11          the area under the main structure may have  
12          a maximum floor-to-ceiling clearance of  
13          7 feet 6 inches from the lowest slab  
14          provided.

15          MR. BODNAR: But the question I asked  
16          between the ceiling at 7'6 and the first  
17          floor slab above that can be any amount?

18          MR. MURPHY: The depth of the slab,  
19          yes.

20          MR. GONZALEZ: I could clarify I  
21          think what you're asking.

22          In order to make the 7'6 clearance  
23          work and not deal with the berm effect, we  
24          have the slab and an -- and an enclosed  
25          space to allow all the plumbing to go

1 through, so it is a completely enclosed  
2 slab slash -- I wouldn't call it a drop  
3 ceiling, but, I mean, an enclosed area  
4 where you have all the sewer lines, all  
5 the plumbing that goes underneath the  
6 house running through, which is nine  
7 inches, so you still have that clearance  
8 of 7'6, 'cause, otherwise, we're talking  
9 then if you expose -- like originally we  
10 had proposed since we had greater height,  
11 we were trying to keep the massing  
12 footprint less and left it exposed, but we  
13 had greater height, so even though you had  
14 to deal with all the plumbing, whether it  
15 was parking under a car or entranceway, we  
16 could accommodate both. So what we did  
17 was we created that enclosed area. So  
18 when you do a measurement under the house,  
19 there's only clearance of 7'6.

20 MR. BELUSH: If they have a soffit or  
21 a container -- 'cause we also don't want  
22 to see those pipes and the plumbing on the  
23 underside of the structure, so they could  
24 enclose that, we would measure on the  
25 underside of that soffit or whatever.

1                   ACTING CHAIR MS. PHANG: Which is  
2                   your 7'6.

3                   MR. GONZALEZ: We're still at 7'6.

4                   ACTING CHAIR MS. PHANG: So Jim was  
5                   asking about the interstitial.

6                   MR. GONZALEZ: Michael just clarified  
7                   that by having that closed off, you count  
8                   understand that, so...

9                   ACTING CHAIR MS. PHANG: So there was  
10                  a comment made by one -- during one of the  
11                  public comments about whether I support  
12                  this project or not, and I'm going to  
13                  articulate why, then I'm going to take a  
14                  straw poll.

15                  If anybody knows me, they know I'm  
16                  not a big -- well, that I'm not a big  
17                  Kumbaya person, but that's really not the  
18                  type of jou jou that I espouse, but I'm  
19                  concerned about the exclusionary opinions  
20                  that are coming from the islands in terms  
21                  of kicking people off the island, because  
22                  they don't want to put something there  
23                  that they don't want to look at. And that  
24                  bothers me from the City of Miami Beach's  
25                  perspective in terms of being more

1 inclusive of inviting people to come and  
2 become residents of the City and to be  
3 able to live and have families in the City  
4 itself.

5 I think the issue is, if the  
6 applicant were to do BFE plus one, there  
7 would still be objections. And I don't  
8 think that's the issue. I think if it was  
9 BFE plus three, I think the fact that it  
10 quote/unquote looks like it's three  
11 stories even though it's two stories is  
12 the problem.

13 And, again, everybody is entitled to  
14 their opinion, which is also the other  
15 part that I'm going to say, which is there  
16 is -- the entire time I've been sitting on  
17 this Board, which has been a number of  
18 years, I've always been a proponent of  
19 people being able to build -- as long as  
20 it's not spec-home driven, people being  
21 able to build what they would like to  
22 build, to be able to live in what is going  
23 to be ultimately their home, but I do have  
24 a very strong respect for the fabric of a  
25 community. I've voted against projects in

1           certain communities, because it didn't fit  
2           with the fabric of that particular  
3           community. And so that is the inherent  
4           ying and yang that's going on right now,  
5           which is I don't live on your island, so I  
6           respect the fact that that it is your  
7           quote/unquote your island, but I am a huge  
8           proponent of allowing people to move onto  
9           an island in a home in land that they've  
10          purchased with their money to be able to  
11          build a home that they want to share with  
12          their families. So the idea that they  
13          have to quote/unquote build it somewhere  
14          else and they can't build it on the  
15          islands, I find that to be actually  
16          offensive to the idea that they cannot  
17          come and live next door to someone in a  
18          home that they want to build.

19                 That being said, you know, we all are  
20                 entitled to be able to express our  
21                 opinions on this Board. And so we'll do a  
22                 straw poll and that will give us a better  
23                 idea of where this is going to go.

24                 And so I think it's 10:16. I don't  
25                 think anybody is going to say that we

1           haven't afforded the application enough  
2           opportunity to be heard and vetted.

3           MR. MURPHY: Thank you, Katie, for  
4           clarity, and you know the forum for the  
5           public discussion and the back and forth  
6           is ended.

7           So as our acting Madam Chair  
8           recommends, I would propose that we do a  
9           straw poll I suppose first and foremost  
10          for the variance, which would require a  
11          unanimous affirmative voice from the Board  
12          members.

13          Mr. Bodnar, a straw poll, not  
14          binding.

15          MR. BODNAR: (Inaudible).

16          MR. MURPHY: Annabel?

17          BOARD MEMBER DELGADO: What is --

18          MR. MURPHY: To approve the variance.

19          BOARD MEMBER DELGADO: Yes.

20          MR. MURPHY: Elizabeth.

21          This is really just rigamarole,  
22          because we already have a negative vote,  
23          but Elizabeth.

24          BOARD MEMBER CAMARGO: Undecided.

25          MR. MURPHY: Mr. Turchin, this is for

1 the variance only.

2 On the variance -- the variance is to  
3 exceed that clearance height that the code  
4 restricts to 7'6.

5 BOARD MEMBER TURCHIN: So they're  
6 allowing him to go down deeper, not raise  
7 anything.

8 ACTING CHAIR MS. PHANG: That's  
9 right.

10 MR. MURPHY: Whether it's down deeper  
11 or up higher, it is the clearance height  
12 of 7'6 they're asking to exceed.

13 MR. GONZALEZ: But we're only  
14 proposing to go down.

15 BOARD MEMBER TURCHIN: No.

16 MR. MURPHY: Okay.

17 And, Ms. Phang, the variance only.

18 ACTING CHAIR MS. PHANG: Yes.

19 MR. MURPHY: So that doesn't seem  
20 like that will be getting an approval.

21 The design can be modified to not  
22 include that variance request. And I  
23 don't think that that in and of itself  
24 will require coming back to the Board.

25 Can I have a straw poll if you are in



1 support of the design with the variance  
2 aside?

3 Annabel?

4 BOARD MEMBER DELGADO: Yes.

5 MR. MURPHY: Mr. Turchin?

6 BOARD MEMBER TURCHIN: Yes.

7 MR. MURPHY: Katie Phang?

8 ACTING CHAIR MS. PHANG: Yes.

9 MR. MURPHY: Mr. Bodnar?

10 BOARD MEMBER BODNAR: (Inaudible).

11 MR. MURPHY: Elizabeth?

12 BOARD MEMBER DELGADO: Yes.

13 MR. MURPHY: So I think you know the  
14 course of action, if maybe we can have a  
15 formal motion.

16 MR. GONZALEZ: Could I make one more  
17 statement?

18 ACTING CHAIR MS. PHANG: Sure.  
19 Quickly.

20 MR. GONZALEZ: Very quickly.

21 Would the Board entertain -- we would  
22 be happy -- obviously not continue; we  
23 want to get an approval today -- withdraw  
24 the variance request, but one of the  
25 reasons we lowered the house was also

1           because of that variance. Could we allow  
2           it to go back six inches and still give up  
3           a foot and allow six inches to go back  
4           into the house?

5           I mean, we structured this compromise  
6           last month. We're trying to get to a  
7           point of approval, so we agreed to the  
8           reduction. We were shifting here, so it's  
9           still overall came out I think something  
10          we could accept.

11          I would respectfully request the  
12          Board, if I withdraw the variance, so it's  
13          off the table, we could still lower the  
14          house a foot and allow us take that six  
15          inches and build it back into the house,  
16          if that would be acceptable.

17          MR. MURPHY: It would not affect the  
18          overall height per se. We would have to  
19          add a condition that the maximum height to  
20          the top of the slab -- of the roof be 23  
21          when measured from BFE plus five.

22          ACTING CHAIR MS. PHANG: Is the Board  
23          in support of that?

24          BOARD MEMBER CAMARGO: Why 23, and  
25          not to 24, which is allowable?

1 MR. MURPHY: I'm sorry, Elizabeth?

2 BOARD MEMBER CAMARGO: Why 23 and not  
3 24, which is allowed by code?

4 MR. MURPHY: Well, because their  
5 drawings show --

6 BOARD MEMBER CAMARGO: Oh, so you  
7 want to keep -- kept it at the 23 as the  
8 design?

9 MR. MURPHY: I want to do a lot more  
10 than that, as you see in the final order.

11 I'm talking about what I'm feeling  
12 from the Board that you're supportive of  
13 the drawings as submitted with the  
14 concession of six more inches that the  
15 applicant is now requesting. That would  
16 bring the height of the top of the second  
17 floor to 23 measured from BFE plus  
18 freeboard. We would then have to go  
19 through the rest of the final order and  
20 decide what is to be added and stricken.

21 MS. BOUTSIS: Just one second. Madam  
22 Chair, if you decide to entertain the  
23 request, you should probably open up  
24 public hearing for that limited  
25 perspective. I've had this happen in

1 before in other cases and there can be a  
2 challenge. It looks like we have a lot of  
3 people interested in this, so I want to  
4 have a clear record, they should be  
5 provided the opportunity to address the  
6 request to increase in height.

7 ACTING CHAIR MS. PHANG: Okay. So  
8 thank you for that, madam city attorney.

9 To be clear at this time, there's  
10 only been a straw poll taken. And as a  
11 result of the straw poll, the applicant  
12 for 2120 Lucerne Avenue has withdrawn the  
13 request for the variance and would --

14 MR. GONZALEZ: We would propose  
15 withdrawing it. If there is no support  
16 for the 6, then, I mean -- I'm just  
17 suggesting, I'll withdraw it as part of,  
18 if the Board supportive of six inches at  
19 23.

20 ACTING CHAIR MS. PHANG: So what I'm  
21 going to do is this, I'm going to reopen  
22 for limited public comment, limited to one  
23 minute per person from the public for the  
24 idea of the withdrawal of the variance,  
25 the reincorporation of six inches that had

1           previously been taken away from the  
2           application, but there would be no  
3           additional height added to the  
4           application.

5           MR. GONZALEZ: Right, 'cause --

6           ACTING CHAIR MS. PHANG: I think my  
7           understanding is the six inches would be  
8           reincorporated within the home, but it  
9           would not actually increase the height of  
10          the project.

11          MR. MURPHY: The height would be  
12          measured --

13          MR. GONZALEZ: Let me --

14          MR. MURPHY: The height of a  
15          two-story building, with levels 1 and 2 to  
16          be distributed as the applicant sees fit,  
17          would be 23 feet from BFE plus five, which  
18          parenthesis is a one-foot reduction of  
19          what the zoning allows.

20          MR. GONZALEZ: Exactly.

21          ACTING CHAIR MS. PHANG: So that's  
22          exactly what we're going to reopen it up  
23          for purposes of public comment.

24          All righty. Great.

25          MS. SENSI: I would just like to say

1 we've been accused of chasing people off  
2 the island, which is not true. I'd like  
3 to strike that out. We made reference  
4 about Key Biscayne, because applicant, the  
5 first hearing he made references about  
6 being flooded in the past at Key Biscayne.  
7 So all we're saying, we're not Key  
8 Biscayne and we are not getting flooded.  
9 And, you know, you want to build house on  
10 stilts, you can, whatever you want, but  
11 this is not the character.

12 If you purchase a home, you know that  
13 the measurements of the land and you know  
14 the rules of the neighborhood. And one of  
15 the stronger rules, when you purchase a  
16 home older than 1942, you have to be  
17 compatible with the neighborhood when you  
18 demolish it.

19 So we are very nice people and we're  
20 not chasing anyone. We're just asking to  
21 be compatible with the rest of us. And I  
22 believe if someone is moving into the  
23 neighborhood, it should intergrade with  
24 the neighborhood, not expect the whole  
25 neighborhood change for them. Thank you.

1                   ACTING CHAIR MS. PHANG: Great.

2                   All right. Any other public comment  
3 on the proposal specifically regarding the  
4 withdrawal of the variance sought and the  
5 cap of the 23?

6                   MR. TAYLOR: Isn't this 23 inches  
7 discussed now still, in essence, a  
8 clearance. How is it not?

9                   MR. MURPHY: Because there will not  
10 be eight-foot clearance of the understory  
11 area.

12                  MR. TAYLOR: You were talking about  
13 the total height of the building. I mean,  
14 the issue is really what's underneath the  
15 building, not the total height.

16                  MR. MURPHY: The building permit plan  
17 will show the area, all areas underneath  
18 that to be no higher than 7'6. They're  
19 not getting a variance for that, Bill.

20                  MS. BOUTSIS: Just so we have a clear  
21 record, can you just restate your name,  
22 sir?

23                  MR. TAYLOR: William Taylor.

24                  MS. BOUTSIS: I'm sorry, on the  
25 microphone. We just need a clear record.

1 I'm sorry.

2 MR. TAYLOR: My name is William  
3 Taylor.

4 MS. BOUTSIS: Thank you.

5 ACTING CHAIR MS. PHANG: Any other  
6 public comment on the proposed revision  
7 from the applicant?

8 Seeing no public comment, I would  
9 invite a motion.

10 They'll have to be two motions. The  
11 first one will have to deal with the --  
12 well, actually, no, I'm going to say right  
13 now, so is the applicant now officially  
14 withdrawing the request for the variance?

15 MR. GONZALEZ: I will -- does the  
16 Board feel comfortable approving those  
17 extra 6, at 23 max height?

18 MS. BOUTSIS: I think he's doing it  
19 contingent. If you give him the six  
20 inches, he's withdrawing. If you don't  
21 give him the six inches, then you can do  
22 your denial. Either way the result is the  
23 same.

24 MR. GONZALEZ: Well, I may ask for  
25 clarification to get a full Board. I



1 mean, I'd like to finalize it all. I  
2 mean, I haven't heard from the all the  
3 Board members. If the Board members are  
4 comfortable with that six inches, so  
5 maximum height is BFE plus five at 23,  
6 then I'll just right now withdraw the  
7 variance and we'll leave it at that. I  
8 haven't heard --

9 ACTING CHAIR MS. PHANG: Well, I  
10 think that the reality is you're not  
11 getting a variance today from what you've  
12 seen from the straw poll.

13 MR. GONZALEZ: No, no, and I agree  
14 with you.

15 ACTING CHAIR MS. PHANG: So because  
16 of that, and if you're going to be asking  
17 for any different variance, clearly it  
18 wouldn't be done today. So I think at  
19 this point in time, if you're not going to  
20 get the variance and your proposal is to  
21 reincorporate the six, just not to exceed  
22 the 23 feet, then I think that that's  
23 probably what you're going to hear is  
24 going to be the motion from the Board.

25 MR. GONZALEZ: With that, I

1           respectfully withdraw the variance, so I  
2           will take that off the table.

3           ACTING CHAIR MS. PHANG: Great. So  
4           we're going to need a motion. We need a  
5           motion from the Board on 2120 Lucerne  
6           Avenue.

7           MR. BODNAR: May I just for  
8           clarification, which James referenced  
9           earlier, they show above freeboard a  
10          dimension for the proposed height above  
11          freeboard of 24 feet. Is that changing?

12          MR. GONZALEZ: Oh, that was the  
13          first --

14          MR. MURPHY: Yes, they're proffering  
15          23.

16          ACTING CHAIR MS. PHANG: So for DRB  
17          16-0082, 2120 Lucerne Avenue, do we have a  
18          motion on the design?

19          BOARD MEMBER DELGADO: I move that  
20          the design be approved.

21          MR. MURPHY: With the amendment that  
22          the maximum height of the two-story  
23          structure shall be no greater than 23 feet  
24          when measured from BFE plus maximum  
25          freeboard of five.

1                   BOARD MEMBER BODNAR: I second the  
2 motion.

3                   ACTING CHAIR MS. PHANG: Seconded by  
4 Mr. Bodnar.

5                   MR. GONZALEZ: Before the vote, quick  
6 question. There were the other  
7 modifications.

8                   MS. BOUTSIS: We'll get there next.  
9 Then we'll go to the order.

10                  MR. MURPHY: So I have a roll call.  
11 Mr. Turchin?

12                  BOARD MEMBER TURCHIN: Yes.

13                  MR. MURPHY: Elizabeth?

14                  BOARD MEMBER CAMARGO: Yes.

15                  MR. MURPHY: Annabel?

16                  BOARD MEMBER DELGADO: Yes.

17                  MR. MURPHY: Mr. Bodnar?

18                  BOARD MEMBER BODNAR: (Inaudible).

19                  MR. MURPHY: Katie Phang?

20                  ACTING CHAIR MS. PHANG: Yes.

21                  MS. BOUTSIS: So you have the  
22 proposed order that Alfredo has  
23 distributed. Just to be clear, the item  
24 that I discussed earlier, which was under  
25 3-E, is irrelevant now, since the variance

1 was withdrawn, so that language is  
2 removed.

3 On the first part, I believe the  
4 first page, it was Item 1, C1a, the  
5 clearance of 7'6, that stays in.

6 ACTING CHAIR MS. PHANG: Yes.

7 MS. BOUTSIS: So the next one is the  
8 four bedrooms, is there anymore desire on  
9 removing that or --

10 ACTING CHAIR MS. PHANG: The design  
11 has been approved as submitted.

12 MR. MURPHY: The design has been  
13 approved.

14 MS. BOUTSIS: Then that comes out.

15 MR. GONZALEZ: But wait, a minute, I  
16 have a question, clarification that should  
17 come out.

18 MS. BOUTSIS: That's what I'm trying  
19 to say, Alfredo, if you listen.

20 MR. GONZALEZ: I did.

21 MS. BOUTSIS: That comes out, if I  
22 understand it correctly, right?

23 ACTING CHAIR MS. PHANG: Yes.

24 1c1b --

25 MS. BOUTSIS: Will come out.

1                   ACTING CHAIR MS. PHANG: -- is coming  
2 out.

3                   MS. BOUTSIS: Then on C1c, does that  
4 come out?

5                   MR. MURPHY: We could just modify  
6 that the maximum height of a two-story  
7 structure shall be measured to 23 feet  
8 from BFE plus maximum freeboard of 5.

9                   MR. GONZALEZ: Wait, which one of --  
10 James, which one are you modifying?

11                  MR. MURPHY: I just re-spoke what C  
12 would be.

13                  MR. GONZALEZ: Got it.

14                  MS. BOUTSIS: Okay. On D?

15                  MR. MURPHY: D, the plans distributed  
16 to the Board, we are recommending that the  
17 maximum height -- I'm sorry, the maximum  
18 width of that walkway shall be limited to  
19 five feet. I understand that exhibit  
20 submitted at the hearing depicts that,  
21 correct?

22                  MR. GONZALEZ: Right, we do five feet  
23 with landscaping on both sides and gravel  
24 after the gate.

25                  MR. MURPHY: So that could stay in,

1           that condition, because you're showing  
2           compliance.

3           MR. GONZALEZ: As long as we allow  
4           five feet the entire --

5           MR. MURPHY: Yeah, so that condition  
6           shall remain. And, Alfredo, after this  
7           hearing, of course, I'll send you a draft  
8           of this.

9           MR. GONZALEZ: I appreciate it.

10          MR. MURPHY: And the rest remains --

11          MS. BOUTSIS: For the variance, there  
12          are no changes there. So with the  
13          modification, just 1C1, which is A  
14          remains, B is removed, C is modified as  
15          James declared and D stays the same, is  
16          there a motion?

17          MR. GONZALEZ: Wait, before -- I  
18          still had a question, I'm sorry, on C1a,  
19          that should be deleted.

20          MR. MURPHY: It doesn't need to be.  
21          It's simply stating something --

22          MR. GONZALEZ: I wanted to keep -- I  
23          wanted clarity. We're still following the  
24          code. So if the code in the future,  
25          something is different, this --

1 MS. BOUTSIS: It's the existing code,  
2 the existing code is 7.6.

3 MR. GONZALEZ: I understand that, but  
4 that doesn't need to be restated here.  
5 I'm asking for it to be deleted.

6 ACTING CHAIR MS. PHANG: I wouldn't  
7 recommend it.

8 MR. MURPHY: It's stating what your  
9 submitted plans show that we're denying.

10 MR. GONZALEZ: I understand.

11 MR. MURPHY: Your concessions on the  
12 floor. It's the documents that your  
13 applicant submitted.

14 MS. BOUTSIS: So there's a motion --  
15 is there a motion to approve, as I stated,  
16 which is leaving in A, which is just a  
17 restatement of the law, removing B,  
18 modifying C and leaving D alone.

19 ACTING CHAIR MS. PHANG: As proposed  
20 by the applicant. And then clearly on  
21 page 4, the date of the proposed order,  
22 the withdrawal of the variance then  
23 eliminates the need for any language --

24 MS. BOUTSIS: Correct.

25 ACTING CHAIR MS. PHANG: -- regarding

1           variances.

2                   And then, Madam City Attorney, you've  
3           already dealt with III.

4                   MS. BOUTSIS: All the other edits  
5           will be removed.

6                   ACTING CHAIR MS. PHANG: Exactly,  
7           which was the carve out on the design and  
8           the variances, so the --

9                   MR. MURPHY: And an affirmation of  
10          the modified order. We've already had a  
11          motion to approve.

12                  MS. BOUTSIS: I would prefer a motion  
13          on those changes.

14                  ACTING CHAIR MS. PHANG: I need a  
15          motion on the changes to the proposed  
16          order for 2120 Lucerne Avenue.

17                  BOARD MEMBER CAMARGO: I move a  
18          motion to approve the changes to the  
19          document.

20                  MR. MURPHY: We have a motion by  
21          Elizabeth.

22                   Do I have a second?

23                  MR. BODNAR: Second.

24                  MR. MURPHY: Second by Mr. Bodnar.

25                   Roll call. Ms. Phang?



1                   ACTING CHAIR MS. PHANG: Yes, I  
2                   approve.

3                   MR. MURPHY: Mr. Turchin?

4                   BOARD MEMBER TURCHIN: Yes.

5                   MR. MURPHY: Annabel?

6                   BOARD MEMBER DELGADO: Yes.

7                   MR. MURPHY: Elizabeth?

8                   BOARD MEMBER CAMARGO: (Inaudible).

9                   MR. MURPHY: Mr. Bodnar?

10                  BOARD MEMBER BODNAR: (Inaudible).

11                  MR. MURPHY: Motion passes 5/0.

12                  MR. GONZALEZ: Thank you.

13                  MS. BOUTSIS: No, the variance was  
14                  withdrawn -- I'm sorry, on the original  
15                  design, who made the motion and second?

16                  ACTING CHAIR MS. PHANG: Annabel, I  
17                  believe.

18                  MS. BOUTSIS: Annabel and Mr. Bodnar.  
19                  Thank you.

20                  (Thereupon, the hearing was  
21                  concluded).

22

23

24

25

CERTIFICATE\_OF\_REPORTER

I, Lorena Ramos, Registered Professional Reporter, do hereby certify that I was authorized to and did TRANSCRIBE the foregoing VIDEOTAPED proceeding; and that the transcript, pages 1 through 113, is a true and correct transcription of the VIDEOTAPED proceeding, to the best of my ability.

DATED this 08/25/2017 at Miami-Dade County, Florida.

*Lorena Ramos*

LORENA RAMOS, RPR

COURT REPORTER

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