

**PALM BEACH COUNTY**  
**BOARD OF ADJUSTMENT**

Thursday, May 18, 2000  
9:05 a.m. - 9:20 p.m.  
100 South Australian Avenue  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer  
Notary Public

A T E N D E E S

Robert E. Basehart, Chairman  
Chelle Konyk, Vice Chairman  
Stanley Misroch, Commissioner  
Joseph Jacobs, Commissioner  
Glenn Wichinsky, Commissioner  
Raymond Puzzitiello, Commissioner

David Cuffe, Civil Engineer II, Land Development  
Laura Beebe, Asst. County Attorney  
Jon P. MacGillis, Principal Planner, Zoning  
Alan Seaman, Senior Planner, Zoning  
Mary Moody, Secretary

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P R O C E E D I N G S

CHAIRMAN BASEHART: I'd like to welcome everybody to the May 18th, 2000 Board of Adjustment meeting. First Item on the agenda would be roll call.

MS. MOODY: Nancy Cardone.

(No response.)

MS. MOODY: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. MOODY: Ms. Chelle Konyk.

MS. KONYK: Present.

MS. MOODY: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. MOODY: Mr. Glenn Wichinsky.

MR. WICHINSKY: Here.

MS. MOODY: Mr. Stanley Misroch.

MR. MISROCH: Here.

MS. MOODY: Mr. Bob Basehart.

CHAIRMAN BASEHART: Here.

Our next item is the proof of publication. I've got the proof of publication in the file. Do we have a motion to accept it in the record.

MR. JACOBS: So moved.

MS. KONYK: Second.

CHAIRMAN BASEHART: Motion and a second.

All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed.

(No response.)

CHAIRMAN BASEHART: Under remarks of the Chairman, for those of you who are not familiar with the proceedings of the Board I'd just like to explain them to you. Normally there's two sections to the agenda. Today there's only one. The first one being the consent agenda.

The consent agenda are all the items that have been submitted where the staff has recommended approval, with or without conditions. And if there are conditions where the applicant has agreed to accept them, and where there's been no indication of opposition from any member of the public.

Those items, if they remain on the consent agenda will just simply be voted on, it won't be necessary for the applicant to make any presentation.

In the event that someone is here to oppose something on the consent agenda, or in the event that one of the members, one or more of the members of the Board feels the item needs to be discussed then that item will be pulled, it'll receive a full hearing, and the Board will make a

decision in normal fashion.

The second group of items are those that are the regular agenda items, and those are ones where there's either a recommendation for partial or full denial by the staff, where there has been an indication of opposition from the public, or where if conditions are recommended the applicant has not agreed with them. And then those items will have a full hearing with a presentation both by the applicant and by the staff and then Board will make a decision. But unless something changes, everything on today's agenda is on consent.

Any other member of the Board have anything they would like to say?

(No response.)

CHAIRMAN BASEHART: Okay. The next item will be approval of the minutes from the April meeting. Has everybody looked at them?

Do we have a motion to accept the minutes?

MS. KONYK: I make the motion.

COMMISSIONER JACOBS: Second.

CHAIRMAN BASEHART: We have a motion by Ms. Konyk, a second by Mr. Jacobs.

All those in favor indicate by saying aye.

BOARD: Aye.

CHAIRMAN BASEHART: Opposed.

(No response.)

CHAIRMAN BASEHART: The minutes are accepted.

CHAIRMAN BASEHART: Next is the remarks of the Zoning Director.

MR. MacGILLIS: No comments.

CHAIRMAN BASEHART: No comment?

MR. MacGILLIS: No comments.

CHAIRMAN BASEHART: Okay. Then we'll get to the agenda. As I indicated, every item on the agenda for today has been indicated as a consent item. We'll go through them one at a time. We'll ask the applicants if they agree with the conditions, and we'll ask if there's any member of the public here to speak against them. If not, then we'll leave them on the consent agenda.

The first item is Board of Adjustment time extension, 2000-024. Eleanor Halperin.

MR. MacGILLIS: We have a letter from Ms. Halperin, She's the attorney and agent for the petition. She sent a letter in yesterday, 17th of May, 2000. She's an agent for Packer Limited. The matter listed on consent agenda Item No. 1, May 18th.

"Please be advised that the applicant accepts all conditions as recommended by staff. I apologize for not being present at the meeting. Extenuating circumstances cause me to be out of town earlier than I expected. If there are any questions, my secretary Terry, who is present, can reach me. Thank you for your consideration in this matter."

And Terry is here.

CHAIRMAN BASEHART: Okay. This is a consent item. These are not advertised.

MR. MacGILLIS: No.

CHAIRMAN BASEHART: And they're not actually public hearing items, are they?

MR. MacGILLIS: Correct.

CHAIRMAN BASEHART: Okay. Does any Board member have a problem with the extension?

(No response.)

CHAIRMAN BASEHART: Seeing none, this item remains on consent. Thanks.

#### **STAFF RECOMMENDATION:**

Staff recommends a **final 6 month** Time Extension from **May 21, 2000 to November 21, 2000**, consistent with Section 5.7.H.2 of the ULDC, to provide additional time for the Petitioner to commence development and implement the approved Site Plan and variances. The property owner shall comply with all conditions of approval of BATE 2000-24 and BA98-32, unless modified below:

#### **ZONING CONDITIONS**

1. The property owner shall provide the

Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan, certified by DRC, simultaneously with the building permit application. **(BLDG PERMIT: BLDG)**

2. Prior to DRC certification, the applicant shall ensure the BOFA conditions are shown on the site plan. **(ZONING-DRC)**
3. There shall be no modifications to the site layout or improvements, unless shown on Exhibit 19. Any minor modifications shall be reviewed by Board of Adjustment staff to ensure the intent of the Board of Adjustment approval is satisfied. **(ZONING-DRC)**
4. By November 21, 2000, the applicant shall have commenced construction of the proposed building in order to vest the setback and landscape variance granted pursuant to BA98-32 and this Time Extension. **(DATE:MONITORING-ZONING/BA)**

**ENGINEERING COMMENT:**

The requirement that the Base Building Line for the subject property be forty (40) feet beyond the existing south right-of-way line of Okeechobee Blvd. is hereby waived. Said Base Building Line is hereby established at the existing north property line of the subject property.

The Base Building Line along Shawnee Avenue is hereby established at the platted north right-of-way line, being the existing south property line of the subject property. **(ENG)**

CHAIRMAN BASEHART: Next item is BOA 2000-025. Sally Benson.

Ms. Sally Benson.

MS. BENSON: Good morning.

CHAIRMAN BASEHART: Good morning. The staff has recommended approval of your variance with two conditions. Are you familiar with them?

MS. BENSON: Yes, I am.

CHAIRMAN BASEHART: And you agree with them?

MS. BENSON: I'm in agreement.

CHAIRMAN BASEHART: Any member of the public here to oppose this item?

(No response.)

CHAIRMAN BASEHART: Okay. Any member of the Board?

(No response)

CHAIRMAN BASEHART: Okay. We'll leave it on consent.

MS. BENSON: Thank you.

MR. MacGILLIS: There were several phone calls. Alan.

MR. SEAMAN: Yeah, there were five responses. Four were -- well, actually two were approval, two were clarification. One was disapproval.

CHAIRMAN BASEHART: But that individual -- did they indicate why?

MR. SEAMAN: They just said that they didn't want to have this in the intersection.

#### **STAFF RECOMMENDATIONS**

**APPROVAL WITH CONDITIONS**, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

#### **ANALYSIS OF ARTICLE 5, SECTION 5.7.E. VARIANCE STANDARDS**

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

**YES.** The subject lot is located at 4029



Pot O' Gold Street, approximately .25 miles north of Forest Hill Blvd., and .25 miles east of Military Trail, within the Pine Air 5 Subdivision, in the RM Zoning District. The subdivision was platted in 1952; Plat Book 23, Page 197. The future land use designation is Medium Residential; (MR-5) and the zoning classification is RM - Multi Family Residential. This area of the subdivision supports 45 lots that support single, duplex, and fourplex family residences that have been constructed over the past 48 years. Access to the development is from Kirk Road and the area is surrounded by residential zoned property to the north, east and west. The area is surrounded to the south, across LWDD canal number seven, by Incorporated Palm Springs and institutional zoned property.

The subject lot complies with all property development regulations in terms of lot size, dimensions and setbacks. The lot is approximately .32 acres in size with a depth of 100 feet and width of 139 feet.

in The current owner purchased the property October of 1999 in its current configuration. He proposes to construct a 15 foot by 53 foot garage addition to the existing duplex. The structure will encroach into the required side street setback by 10 feet. The applicant wishes to construct a garage for storing personal items as well as a car. Since the residence is half of an existing duplex, relocating the garage to another side yard is not feasible and less accessible to the applicant's resident. The proposed location along Tangelo Avenue is considered the best location. These special circumstances require locating the proposed garage at the west half of the duplex lot.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE  
THE RESULT OF ACTIONS OF THE APPLICANT:

**NO.** The applicant purchased the property in October, 1999 in its current configuration. The lot supports a duplex which restricts the applicant to design

options which will only utilize his portion of the property. What remaining space is available is utilized by a concrete drive and fencing in the front and rear of the lot. The proposed garage addition to the existing duplex cannot be accommodated without a variance. The garage is requested to accommodate the applicant's car and personal items.

3. GRANTING THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES, IN THE SAME DISTRICT:

**NO.** Granting the variance **shall not** confer special privileges upon the property that other parcels in the same zoning district would be denied. To construct a garage addition to a duplex family dwelling for the purpose of accommodating a car and personal items is a reasonable request. The code requires buildings to be set back from the property lines to ensure consistency within the neighborhood, maintain uniformity of the construction and provide minimum separation between uses on adjacent properties to minimize visual impacts. The code also protects adjacent property owners as well as property values. The subdivision is made up of single, duplex and fourplex family residences. Other residents in the neighborhood currently enjoy the use of similar structures, (e.g., carports, garages and sheds for storage purposes. Therefore, the additional of the garage is in character with the existing neighborhood and confers no special privilege on the applicant.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**YES.** A literal interpretation of the provisions of the ULDC **will** deprive the applicant of rights commonly enjoyed by

other parcels of land in the same district. As indicated in the applicant's justification, the proposed addition, when completed, will be consistent with the overall architectural integrity of the home. Therefore, the proposed addition will be compatible with the residential dwellings and will maintain the property values within this older residential subdivision.

5. THE APPROVAL OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

**YES.** As previously indicated, the corner lot and the fact that the residence is a duplex, restrict the options of placing the garage elsewhere on the site. There are no alternative design options that would further reduce or eliminate the variance request. To construct the proposed garage addition in the west portion of the side yard is the only practical design solution for the applicant and will ensure his ability to store personal items as well as his car of the view of the neighbors.

**is** Therefore, the approval of this variance the minimum variance that will allow a reasonable use of this parcel of land and structure.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**YES.** The variance request complies with the general intent of the ULDC front setback requirement. The intent of the code is to ensure a minimum separation between the proposed addition and the front property line as well as adjacent property. The grant of the variance request **will** allow the homeowner to keep his car and personal items covered and protected from the elements as well as out of view from neighbors. As previously indicated, the variance will not have negative impacts on the adjoining property

to the west. The proposed addition, when completed, will be in harmony with the residence.

The intent of the Comprehensive Plan is to encourage residential development to improve and maintain the living standards for people to better enjoy their neighborhood. The proposed garage addition to an existing 1972 duplex family residence to accommodate the applicants needs is not an uncommon request for homes built 28 years ago. The requested variance will allow the property owners to promote their quality and enjoyment of this property and enhance their life by allowing them the ability to keep their car and personal items covered and protected from the elements.

Therefore, granting the requested variance **will be** consistent with the objectives of the ULDC and the Comprehensive Plan.

7. THE GRANT OF THE VARIANCE WILL BE  
I N J U R I O U S  
TO THE AREA INVOLVED OR OTHERWISE  
DETRIMENTAL TO THE PUBLIC WELFARE:

**NO.** There will be a sufficient separation/setback between the proposed garage addition and the lot line as well as Tangelo Avenue to separate the affected residences. In addition, the existing trees along Tangelo Avenue will mitigate the impacts associated with this variance.

Therefore, granting this variance **will not** be injurious or otherwise detrimental to the public welfare. Instead, the request is compatible with the surrounding uses of the area and approval of the variance **will** contribute to the promotion of the applicant's quality of life.

#### ENGINEERING COMMENT

The Base Building Line for Tangelo Ave. has been established at the existing west property line of the subject property by Base Building Line Waiver issued on April 4, 2000. However, the proposed 15 ft. depth of the remaining driveway on Tangelo

Avenue is not sufficient to accommodate off-street parking of a vehicle in the driveway without encroaching into the County street right-of-way.

ZONING CONDITION(S)

1. By November 10, 2000, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application.  
**(DATE: MONITORING-BLDG PERMIT: BLDG)**
  
2. By February 16, 2001, the applicant shall obtain a building permit in order to vest the front setback variance for the proposed addition to the existing garage.  
**(DATE: MONITORING-BLDG PERMIT)**

CHAIRMAN BASEHART: The next item is another time extension, 2000-026. Michael Houston.

Ms. Coward, are you here to represent this?

MS. COWARD: Yes.

CHAIRMAN BASEHART: There's been one condition recommended as part of this. Do you agree with it?

MS. COWARD: Yes.

CHAIRMAN BASEHART: Any indication of opposition?

MR. MacGILLIS: This is a --

CHAIRMAN BASEHART: That's right. Any member of the Board want to hear this?

(No response.)

CHAIRMAN BASEHART: Okay. It'll remain on

consent.

**STAFF RECOMMENDATION:**

Staff recommends a maximum 12 month Time Extension from May 20, 2000 to May 20, 2001, consistent with Section 5.7.H.2 of the ULDC, to provide additional time for the petitioner to commence development and implement the approved variance.

The property owner shall comply with all conditions of approval of BA99-40, unless modified herein:

**ZONING CONDITION:**

1. The property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. **(BLDG PERMIT: BLDG**

**ENGINEERING COMMENT:**

The Base Building Line for the subject property is hereby confirmed as being at the ultimate west right-of-way line for S.R. 7 as established by FDOT order of taking, and as shown on the DRC approved site plan (Petition No. 90-25, Exhibit No. 23, approved 5/13/98). **(ENG)**

CHAIRMAN BASEHART: Next item is Board of Adjustment 2000-027. Robert MacLean, II, for BRCH Foundation.

MR. MacGILLIS: Just need to clarify on

page 40, on the top of the area that's indicating a variance, the shadowed area at the top, the third line down where it says 7.323.

Just need to clarify that because on this site we have an existing office building and a proposed office building. It was the applicant's intention to request the variance to allow the existing foundation planting on the existing building to remain as is and not have to upgrade it and the proposed building to reduce the landscaping.

They've submitted an alternative landscape plan that's part of the approval, here as a condition of approval that clarifies that. The staff report unfortunately didn't reflect that, but it should.

Staff doesn't have a problem making sure that the existing building, the landscaping there as you can see in the pictures in the back-up material is adequate. Actually exceeded the code at the time the actual building was built. Foundation plantings only went into the ULDC in the last two years. This building has been there since '97.

And the proposed office building will -- because they're trying to keep it in keeping with the existing building that's there, they're proposing to put landscaping and stuff in different areas and keep the parking so it functions with the existing parking lot.

So I think with the fact that we put the condition on in holding them to that landscape plan, alternative plan, that staff doesn't have any problem changing this. So I want that for the record so when they go through the public hearing process they don't -- the Zoning section doesn't make them put additional foundation planting on the proposed building.

CHAIRMAN BASEHART: Okay. Everybody understand that?

Do you agree with the three conditions recommended?

MS. TURNER: Yes, we do.

MR. MacGILLIS: We do have -- Ms. Turner brought in a consent form this morning to represent the BRCH Corporation.

CHAIRMAN BASEHART: Any member of the public?

(No response.)

CHAIRMAN BASEHART: None. Board members?

(No response.)

CHAIRMAN BASEHART: Okay. This will remain on consent.

**STAFF RECOMMENDATIONS**

**Approval with conditions**, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

**ANALYSIS OF ARTICLE 5, SECTION 5.7.E  
VARIANCE STANDARDS**

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

**YES.** The applicant is proposing to combine the zoning approvals approved in 1999. Petitions 89-44 and 89-45. Both projects were approved for Planned Office Business Parks (POBP). Petition 89-44 (western parcel) currently supports a 3 story, 24,000 sq/ft medical office building. The site also supports parking, landscaping and drainage. The parcel to the west is currently vacant. The applicant's client is proposing to combine the two zoning approvals into one new petition. The applicant will submit a Zoning application to the BCC, if the variances are approved. The proposed layout of the new project will be very similar to what is currently approved on the separate sites. The applicant will only have one access point onto Glades Road and will be required to upgrade the parking and landscaping. The applicant has met with staff to determine how to comply with the intent of the landscape code for the new project. The site that is developed is well landscaped and maintained. The applicant will be upgrading the landscaping along Glades Road, along the perimeters, parking lot and foundation planting. Several on-site constraints restrict the applicant from meeting all landscape code requirements. The applicant has submitted an Alternative Landscape Plan, that has been conceptually



approved by staff, that demonstrates the applicant's commitment to comply with the current landscape code to the greatest extent possible. Staff has recommended a condition of approval that the Alternative Landscape Plan landscaping be installed prior to the final Certificate of Occupancy on the new three story office building.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE  
THE RESULT OF ACTIONS OF THE APPLICANT:

**NO.** The variances **are not** self created. The site has a 20' water easement running parallel to the entire western property line. The easement cannot be relocated and the shade trees cannot be placed on top of the easement. The applicant is proposing to install 60 palm trees instead of the 20 shade trees. There are several landscape islands within the parking lot along this buffer that can accommodate the shade trees. To the west of this site is Petition PDD 95-02 which supports the Burdines furniture gallery. This site will have a Type II landscape buffer that requires a 15 foot wide buffer, trees 30 feet on center and a wall. Therefore, the general intent of the landscape code which is to install a compatibility buffer along the western property line will be accomplished. The variance to reduce the buffer width along 200 feet of the north property line only applies to the undeveloped portion, approximately 200 feet of the site. To the north of this site is the Promenade at Boca Raton PUD, Petition 95-88, which supports existing multi family units. The PUD requires a 30 foot wide buffer, berm and trees 30 feet on center. Therefore, the applicant is requesting to reduce the required 15 foot buffer on this project to 5 feet to be consistent with the existing northern buffer width on this project and to allow room to accommodate the on-site drainage. All the required plant material will be installed in the 5 foot buffer. Therefore, considering the 30 foot wide buffer on the adjacent project and the fact the applicant will be installing the required plant material in the remaining

5 foot buffer, the general intent of the code will be met. The third variance is to allow the applicant to keep the existing foundation planting in front of the existing office building while not having to install it on all sides as required by the current code. This is a reasonable request considering there is existing foundation planting.

3. GRANTING THE VARIANCE SHALL CONFER UPON THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDING OR STRUCTURES, IN THE SAME DISTRICT:

**NO.** The granting of the requested landscape variances **will not** grant any special privilege on the applicant. The applicant has unique circumstances surrounding this project that warrant special consideration when applying the literal intent of the code provisions. The applicant has a site that is partially constructed under the 1973 Zoning Code and the undeveloped portion that will be constructed under the current ULDC. Overall, the applicant has made every attempt to reduce the amount of variances necessary to combine these two previously approved sites into one new project. The applicant has submitted an Alternative Landscape Plan to address the on-site landscaping. The ULDC, Article 1.5 recognizes that certain projects may be constructed under different codes. The ULDC allows an applicant to submit an Alternative Landscape Plan that allow flexibility in the placement of landscaping when site constraints restrict placement according to the literal intent of the code. The final landscaping for this site will meet and/or exceed the code requirements in certain areas.

4. A LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**YES.** The enforcement of the literal

i            n            t            e            n            t

of the landscape code would place a significant hardship on the applicant. The applicant has worked with staff to resolve the final landscape plan to avoid the need for variances. However, due to the existing water easement and on-site drainage requirement the buffer planting and width along the western and northern property line have to be modified. The water easement cannot be abandoned. The Water Utilities will not permit shade trees on the easement since the roots may interfere with the intent of the easement. The placement of 60 palms instead of 20 shade trees will clearly meet the general intent of the code to buffer compatible uses with landscaping. The reduced buffer width along 200 feet of the north property line is justified, since the remaining developed 100 feet of the property line buffer is only 5 feet in width. When the western portion of the property was developed the code only required a 5 foot wide buffer. However, the current ULDC requires 15 feet. In order to meet the current on-site drainage requirements the applicant must show on-site retention. The retention area is to be located adjacent to the north property line and parking lot. The landscaping cannot encroach the drainage area. Therefore, the applicant is requesting to provide only 5 foot wide landscape buffer instead of 15 feet. The same amount of plant material will be installed in the remaining 5 foot buffer. The variance for the foundation planting is only relevant to the existing building. The existing building has palm trees along the entrance (western facade) and some along the south facade. The applicant is requesting a variance not to have to install additional landscaping around this existing building. There will be additional trees placed in the buffer along Glades Road, which is adjacent to the south foundation planting area.

5. THE APPROVAL OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

**YES.** The sites are currently approved to function independently under two different Zoning approvals. The proposal is to combine both sites into one new project. The existing built out site to the north will continue to function the way it currently is, while the western parcel will be developed to support a 3 story building. The applicant will have to receive BCC approvals in order to combine the two projects into one. However, the applicant cannot be placed on a BCC agenda for a public hearing until the three landscape variances are approved. The applicant, who's client owns both properties, would like to combine them to function more efficiently. There will be only one access point onto Glades Road and the parking lot will be shared by both buildings.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**YES.** This project has a land use designation of CL-5 and zoning classification of CS-Specialized Commercial. As previously stated, both parcels have received approval in 1989 from the BCC for medical office buildings under a Planned Office Business Park. The proposed combination of the two projects into one will require BCC approval. The applicant is proposing the modifications to the site so it better addresses their client's needs and users of the site.

7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

**not NO.** The granting of the variances **will** be injurious to the surrounding area. As previously stated to the west is an existing commercial development, Burdines, that has installed landscaping along their property line. With the proposal to install 60 palm trees along this common buffer both properties will have adequate

buffering. To the north, where the applicant is requesting to reduce the required landscape buffer from 15 feet to 5 feet, is an existing PUD. The PUD has already installed a 30 feet wide buffer with berm and trees. With the proposed 5 foot buffer the applicant is proposing the two sites will be adequately buffered, as required by code. The requirement to increase foundation planting around the existing building will be mitigated as shown on the Alternative Landscape Plan, Exhibit 21. Staff is recommending a condition of approval that the Landscape Alternative Plan be a condition of approval of these landscape variances. The Alternative Landscape Plan ensures the overall intent of the landscape code is met.

#### **ENGINEERING COMMENT**

No Comment. **(ENG)**

#### **ZONING CONDITIONS**

1. The property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. **(BLDG PERMIT: BLDG)**
2. Prior to DRC certification, the applicant shall ensure the BOFA conditions are shown on the site plan. **(DRC-ZONING)**
3. Prior to Development Review Committee certification, the applicant shall submit and receive Zoning Division approval of an Alternative Landscape Plan that is consistent with the Landscape Plan, Exhibit 21, in the BA file BA2000-027, in the Zoning Division. **(DRC-ZONING)**

CHAIRMAN BASEHART: And the last one. Board of Adjustment 2000-028. Dwight Weyant. Mr. Weyant.

MR. MacGILLIS: We've got a change also on your back-up material, page 61. The first variance should read required 100 feet, proposed is 35 feet for a variance of 65 feet. That's reflecting the engineering's 40 feet base building line for Northlake Boulevard that wasn't accounted for in the original application. So staff doesn't have a problem with that modification.

The second variance should read 100 foot rear setback, proposed 75 feet for a variance of 25 feet. The applicant is aware of these changes and accepts them.

I believe there's no changes to conditions on page 67.

CHAIRMAN BASEHART: Just for the record, I just want to make public, the applicant, Mr. Christian is out there, is a friend of mine and also a client.

I have had nothing to do with the preparation or representation of this application. I don't think I need to abstain, it's a consent item. What do you think?

MS. BEEBE: He's not currently your client on this item?

CHAIRMAN BASEHART: No. I have not -- Mr. Weyant did this. Okay?

MS. BEEBE: Okay.

CHAIRMAN BASEHART: That being the case, Mr. Weyant, do you agree with the five conditions recommended by the staff?

MR. WEYANT: Yes, we do.

CHAIRMAN BASEHART: Is there any member of the public here to discuss this item?

(No response.)

CHAIRMAN BASEHART: Any Board members?

(No response.)

MR. MacGILLIS: I received two letters -- or I received a phone call from the adjacent property on the west yesterday, Thomas Valaso (phon.). He wasn't too concerned once I explained what the variance was for.

CHAIRMAN BASEHART: Okay.

MR. MacGILLIS: There's a second letter

that was mailed in opposed by Richard Engler, at 14655 92nd Court North, opposing it with no explanation why.

CHAIRMAN BASEHART: Okay. Any member of the Board feels that this matter needs to be pulled?

MS. KONYK: You asked that already. No.

CHAIRMAN BASEHART: Just for the record I wanted to let you know that Ms. Konyk wanted to pull this item because we're about to break the record for the shortest meeting we've ever had.

MS. KONYK: And I hold the last record.

CHAIRMAN BASEHART: Which was set when she was the Chairman.

MS. KONYK: But I decided that I'm just going to discuss this memo in length, so we can proceed.

CHAIRMAN BASEHART: All right. Nobody wants to pull this item.

All those in favor indicate by saying aye.

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Okay. This item is approved. Well, actually it stays on consent.

#### **STAFF RECOMMENDATIONS**

**Approval with conditions**, based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

#### **ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS**

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

**YES.** There **are** unique circumstances that are particular to this lot that warrant special consideration when applying the literal intent of the AR setbacks. This site is currently vacant and the applicant is proposing a 4,756 general day care center. The property has limitations that

restrict the applicant from complying with the literal intent of the AR-Agricultural Residential setbacks. The applicant's client purchased two parcels, 154 and 187, in order to comply with the Health Department's requirements for lot area for a day care on septic and well. The site size is reduced, which effects the ability of the applicant to comply with the setbacks by two public easements for right-of-way and the canal. The property owner has to dedicate 40 feet of depth in order to accommodate the additional right-of-way for Northlake Blvd., and there is a 30 feet drainage easement along the rear of the lot for the 60 foot wide canal. This leaves 200.7 feet of depth for this property. In the AR zoning district the required depth of a lot is 300 feet. This ensures that the required 100 foot front and rear setback can be applied. However, there are lots in the county that are legal non-conforming that like in this case do not have the required depth. The ULDC, Article 1.9 (Non-Conforming AR lots) has a provision that allows a percentage setback to be applied. This provision, however, is only applied to residential structures. Therefore, in this case the applicant has to apply for a variance. There are unique circumstances particular to this lot and use that warrant special consideration when applying the literal intent of the setback provision. The literal intent of the 100 foot AR setback is to ensure consistency from the street for building setbacks. It ensures there is adequate land and to preserve the natural open space quality that is indicative of this zoning district. In this particular case the applicant is requesting a variance of 25 feet from the front and rear setback. Staff is recommending a condition of approval that the landscape buffer along Northlake Blvd. be upgraded with native plant material to mitigate any negative impacts associated with the variance request. The rear setback encroachment will be mitigated by the 60 foot wide canal and the required landscape buffer that must be installed per the Landscape Code.



2. SPECIAL CIRCUMSTANCES AND CONDITIONS ARE  
THE RESULT OF ACTIONS OF THE APPLICANT:

**NO.** This **is not** a self create situation. The property owner purchased the two lots in 1989 and 1995. Both lots are legal non-conforming in terms of lot area and property development regulations (depth). The applicant is proposing to develop the property to support a 4,756 sq/ft general day care center. However, there are several site constraints that limit the site design that would eliminate the need for any variances. The dedication of land for the right-of-way expansion and canal both reduce the depth of the lot. Also, the site is on septic and well that restricts the placement of the building and parking. The eastern portion of the site supports native slash pines which the applicant is proposing to preserve and incorporate into the site design. Other property owners developing in this area can apply percentage AR setbacks to their non-conforming AR lot, however, since this property is not being developed residential it must comply with the underlying AR 100 foot setbacks.

3. GRANTING THE VARIANCE SHALL CONFER UPON  
THE APPLICANT SPECIAL PRIVILEGE(S) DENIED BY  
THE COMPREHENSIVE PLAN AND THIS CODE TO  
OTHER PARCELS OF LAND, BUILDINGS OR  
STRUCTURES IN THE SAME DISTRICT:

**NO.** The granting of the requested  
e t b a c k s  
**will not grant** a special privilege on the applicant. The applicant has demonstrated a hardship that exists on the legal non-conforming AR lot. The applicant's client purchased two lots in order to move forward with this use. Both lots are legal non-conforming in terms of lot size and depth. The depth is further reduced by the required 40 foot dedication of land for the Northlake Blvd. right-of-way and the 30 foot of dedication for the 60 foot canal along the rear of the property. These dedications severely reduce the depth of the property which has a direct effect on the applicant's ability to comply with the 100 foot front and rear

setback. The property is also on septic and well which limits the possible redesign of the site to re-orientate the building to comply with setbacks. The eastern portion of the site will remain undeveloped, however, this land area was needed in order for the applicant to comply with the PBC Health Department requirements.

Other property owners in this rural subdivision can apply for percentage setbacks, if they are developing the property as residential. However, the ULDC has no provision for reduced setbacks for non-conforming lots that are being developed for non-residential uses. The applicant would have only 10 feet of buildable area if the 100 foot rear setback is applied to this property.

4. A LITERAL INTERPRETATION AND ENFORCEMENT  
OF THE TERMS AND PROVISIONS OF THIS CODE WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**YES.** As stated in Number 3 above, other property owners with non-conforming AR lots that are being developed as residential can take advantage of a reduced setback by right. However, the code does not provide such a provision for non-residential uses. The property owner is dedicating land area for future right-of-way and the canal easement. Both these dedications further reduces the depth of the lot. In the AR zoning district a conforming lot would be required to have 300 foot of depth. However, this lot has only 200.7 feet. This greatly reduces the size of a building that can be constructed on this property without the need for a variance. If the literal setbacks were applied the applicant would have only 10 feet of buildable area.

Therefore, the granting of this variance will provide the applicant with the opportunity to proceed through the public hearing process to the BCC. The applicant will have to demonstrate to the BCC that

this use is appropriate for this particular area. The Board may impose conditions of approval to mitigate the use. Staff is recommending conditions of approval on this variance that will mitigate any negative impacts associated with the reduced setbacks.

5. THE APPROVAL OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

and **YES.** The granting of the reduced front rear setback **is** the minimum necessary in order to allow this project to move forward through the public hearing process. The non-conforming status of this lot places many challenges on the applicant in terms of complying with all code requirements without need for any variances. The applicant is only requesting two setback variances that can be mitigated with additional landscaping. Staff is recommending conditions of approval that will require additional landscaping along Northlake Blvd. to mitigate the 25 foot reduced setback. The rear setback will be mitigated by the existing 60 foot wide canal. There is also existing native slash pines along the canal and vacant properties to the rear that will mitigate the 25 foot reduced rear setback.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**YES.** Granting the variance **will be** consistent with the intent of the Comp Plan and ULDC. The property has a RR-10 land use which allow day care centers a Conditional Use, approved by the BCC. This use is considered a transitional use between residential and more intense commercial uses. The applicant will have to demonstrate to the BCC that this use is appropriate for this location. The Board can impose conditions to mitigate the use on the surrounding residential lots. The intent of the 100 foot front and rear

setback is to ensure consistency in setbacks for all structures in the zoning district. However, as previously stated in number 4, this rural AR zoning district has a variation in setbacks from 25 feet to 100 feet. The applicant's request to deviate 25 feet from the required front and rear setback is reasonable when considering the dedication of right-of-way and reduction created by the canal easement in the rear of the lot.

7. THE GRANT OF THE VARIANCE WILL BE  
 I N J U R I O U S  
 TO THE AREA INVOLVED OR OTHERWISE  
 DETRIMENTAL TO THE PUBLIC WELFARE:

**NO.** The granting of the requested variances **will not be negative or injurious** to the surrounding area. The rural area currently supports undeveloped and developed single family lots. The area also supports significant stands of native slash pines that have been preserved. The applicant is proposing to incorporate the existing native vegetation into the site design. The eastern portion of the site will remain undisturbed and will be enhanced by the landscape code requirements in terms of buffering.

#### ENGINEERING COMMENT

D e p a r t m e n t  
 Please note that the Engineering does not waive the requirement that the Base Building Line for the subject property be forty (40) feet beyond the existing right-of-way line (i.e., interior easement line) of Northlake Boulevard. Given the existing 100 ft. (total) right-of-way, said Base Building Line shall remain as established by Sect.6.5.G.7.a, ULDC. **(ENG)**

#### ZONING CONDITIONS

1. The property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application for the day care center.

**(BLDG PERMIT)**

2. Prior to DRC certification of the final plan for this day care use the applicant shall ensure the Board of Adjustment conditions are on the certified plan. **(DRC)**

3. The applicant shall commence construction on the day care center building by May 15, 2001, in order to vest the front and rear setback variances. **(DATE: MONITORING-ZONING\BA)**

4. By January 15, 2001 or concurrent with submittal of the final Landscape Plan to the Landscape Section, the applicant shall ensure the Landscape Plan reflects the upgrade landscaping along Northlake Blvd. as required by Condition #5 of BA2000-28 approval. **(DATE: MONITORING-LANDSCAPE)**

5. The applicant shall install the following landscape plant material in the buffer along Northlake Blvd. prior to final Certificate of Occupancy on the day care center.

1. Upgrade the required native tree

in height, planting with trees 12-14'  
center and planted 20 feet on-

2. Install either native saw  
p a l m e t t o s ,  
coco plum, wax myrtle understory

hedge material to create a solid  
visual buffer from the  
street.

**(LANDSCAPE-CO\INSPECTIONS)**

CHAIRMAN BASEHART: What we need to do now is actually vote on the consent agenda.

MS. KONYK: Okay. I make a motion to accept Board of Adjustment time extension 2000-024 and 2000-026; and Board of Adjustment 2000-025; 2000-027; 2000-028. I recommend approval of all of these items with the staff report becoming part of the record.

MR. WICHINSKY: Second.

CHAIRMAN BASEHART: We have a motion by Ms. Konyk, a second by Mr. Wichinsky.

All those in favor indicate by saying aye.

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Motion carries unanimously. That concludes the items on the agenda.

One issue that Ms. Konyk would like to address.

MS. KONYK: I would like to read this letter.

CHAIRMAN BASEHART: All eight pages of it?

MR. PUZZITIELLO: The whole code and everything.

MS. KONYK: Never mind.

CHAIRMAN BASEHART: There being no other business, do I have a motion --

MR. WICHINSKY: I have a question, Mr. Chairman.

CHAIRMAN BASEHART: Okay.

MR. WICHINSKY: In response to this memo, have we received any responses?

MR. MacGILLIS: I received a call from Commissioner Aaronson's aide, he has someone he wanted for the alternative. And Mary received a call from Mary McCarty's office yesterday for the alternate.

Nothing from -- we received inquiries from Mary McCarty's aide and Commissioner Aaronson's aide for the At-Large appointment. We still have not received anything for Maude Ford Lee's district appointment.

MR. WICHINSKY: Can we change her district lines?

MR. MacGILLIS: And just for the Board's information, we now actually have your packets available on the Internet. If you go the PZB's Web page, Zoning, you can actually find your packet on there, which is put on usually -- we mail them out Friday to you, they're available Sunday on the Internet.

CHAIRMAN BASEHART: The whole staff

report?

MR. MacGILLIS: They're links, you find the agenda, they're hot links and you just click on it. They're actually in color.

CHAIRMAN BASEHART: Wow.

MR. MacGILLIS: The agendas, the result list, everything is on the Internet now.

MS. KONYK: How about the minutes?

MR. MacGILLIS: The minutes.

MS. KONYK: Ooh, that's scary.

MR. MacGILLIS: The minutes, we don't get the minutes back until like the week before the hearing.

MS. MOODY: Well, the minutes can go on the same time the staff reports, cause I --

MR. WICHINSKY: That's excellent. For those of us that travel and have a lap top, we can -- we don't have to come back to the office the day before the meeting and cram for the --

MR. PUZZITIELLO: You opened up the package when you sat down, what are you talking about?

MS. KONYK: He knew it was on the Internet, he already read it.

CHAIRMAN BASEHART: All right. Any other discussion?

MS. KONYK: We've got to adjourn this meeting, then we can talk.

CHAIRMAN BASEHART: Do we have a motion?

MS. KONYK: Motion to adjourn.

CHAIRMAN BASEHART: Motion by Ms. Konyk.

MR. PUZZITIELLO: Second.

MR. WICHINSKY: Second.

CHAIRMAN BASEHART: A unanimous second.

All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

MR. MISROCH: No.

CHAIRMAN BASEHART: Motion carries 5-1. Mr. Misroch is going to stay here all day.

(Whereupon, the meeting was adjourned at 9:20 a.m.)

\* \* \* \* \*

C E R T I F I C A T E

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

I, Sophie M. Springer, Notary Public, State of Florida at Large,

DO HEREBY CERTIFY that the above-entitled and numbered cause was heard as hereinabove set out; that I was authorized to and did report the proceedings and evidence adduced and offered in said hearing and that the foregoing and annexed pages, numbered 4 through 26, inclusive, comprise a true and correct transcription of the Board of Adjustment hearing.

I FURTHER CERTIFY that I am not related to or employed by any of the parties or their counsel, nor have I any financial interest in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_\_ day of June, 2000.

\_\_\_\_\_  
Sophie M. Springer