

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, November 15, 2001
9:00 a.m. - 9:25 a.m.
100 South Australian Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Robert E. Basehart, Chairman

Chelle Konyk, Vice Chairman

Mr. Raymond Puzzitiello

Ms. Nancy Cardone

Mr. Glenn Wichinsky

Mr. Joseph J. Jacobs

Mr. Bart Cunningham

Jon MacGillis, Principal Planner, Zoning

David Cuffe, Civil Engineer II, Land Development

Amy Petrick, Asst. County Attorney

Alan Seaman, Senior Planner, Zoning

Miradieu Aubourg, Jr., Planner I

Janet Quinn, Secretary

I N D E X

<u>Petition</u>		<u>Page</u>
1	BOFA 2001-075	6
2	BOFA 2001-076	6
3	BATE 2001-085	6
4	BATE 2001-077	7
5	BOFA 2001-078	11, 37
6	BOFA 2001-079	12
7	BOFA 2001-082	16
8	BOFA 2001-083	20
9	BOFA 2001-084	26
10	BOFA 2001-086	31
11	SD-101	42
	<u>CERTIFICATE OF REPORTER:</u>	45

P R O C E E D I N G S

CHAIRMAN BASEHART: We'll call to order the November 15, 2001, Palm Beach County Board of Adjustment meeting.

Well, I guess we have to have roll call first.

MS. QUINN: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. QUINN: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. QUINN: Ms. Chelle Konyk.

VICE CHAIRMAN KONYK: Here.

MS. QUINN: Mr. Ray Puzzitiello.

MR. PUZZITIELLO: Here.

MS. QUINN: Mr. Glenn Wichinsky.

MR. WICHINSKY: Here.

MS. QUINN: Mr. Bart Cunningham.

MR. CUNNINGHAM: Here.

MS. QUINN: And Mr. Bob Basehart.

CHAIRMAN BASEHART: Here.

Is there a motion to accept proof of publication?

MR. WICHINSKY: So moved.

MR. PUZZITIELLO: Second.

CHAIRMAN BASEHART: A motion by I guess Mr. Wichinsky, second by Mr. Puzzitiello.

All those in favor?

BOARD: Aye

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Motion carries.

Next item is remarks of the Chairman. The only thing I'd like to say is for those of you that aren't familiar with our proceedings, we generally break the agenda into two sections. The first section is what we call the consent agenda. Those are items where the staff has recommended approval, and if there are any conditions of approval the applicant has been made aware of them and has agreed with them and where there has been no indication of opposition from the public.

All the Board members have received the staff reports. We've all read them. If all the Board members are in agreement with the report and the recommendation and no one is here to object to those items, they stay on consent. No presentation is necessary. The staff report becomes the record of the hearing. And as I said, no presentation by either the staff or the applicant is necessary.

The other part of the agenda is the regular agenda. Those are items where either there's a

recommendation of denial or partial denial, where there's been no agreement on conditions of approval or where there's been substantial evidence of opposition from members of the public. Those items require a full hearing and presentation by the applicant and then at the conclusion the Board will vote individually on those items.

Today we've got only one item on the regular agenda and I understand that there may be a suggestion to move that to consent. That being the case, we won't have a regular agenda. I guess that's all I need to say.

Is there any other member of the Board that would like to say anything?

(No response.)

CHAIRMAN BASEHART: Okay. Next item on the agenda will be approval of the minutes. We all received our minutes on disk from the October meeting.

Has anybody got any corrections to them?

(No response.)

CHAIRMAN BASEHART: Okay. Seeing none, do we have a motion to accept the October minutes?

VICE-CHAIRMAN KONYK: So moved.

CHAIRMAN BASEHART: Motion by Ms. Konyk.

MR. WICHINSKY: Second.

CHAIRMAN BASEHART: Second by Mr. Wichinsky. All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Minutes are adopted.

Next item is the remarks of the Zoning Director. Jon?

MR. MacGILLIS: Just one comment on that item that was on the agenda last month with regard to the contractor error, we did send the information to Contractor Certification, and apparently he has a State license. So actually Helen LaValley was the agent for that, but we did send the information to her. Whether or not the property owner wants to pursue it, it's not something really I've been told by Kurt Eisman (phon.), the director Contractor Certification, there's really nothing we can do.

But we provided the letter to the agent to give to the property owner if they want to follow through with it, so.

CHAIRMAN BASEHART: Okay. Then they can just deal directly with the State?

MR. MacGILLIS: Right.

CHAIRMAN BASEHART: Okay. Then we get to the agenda. Were you going to move an item?

MR. CUFFE: Yeah, the subdivision variance,

SD-101. We're proposing to move to the consent agenda. The Engineering Department is recommending approval of this variance request with two conditions. The applicant has already agreed, consented to those conditions, and we have not received anything in writing from the public objecting.

We've received one call of objection to the variance process in general, but nothing specific to the variance.

CHAIRMAN BASEHART: Okay. Why don't we then consider that, add that to the end of consent and we'll deal with it as the last item. Any objection to that?

(No response.)

CHAIRMAN BASEHART: Okay. Then let's go to the consent agenda. We'll address each one of them individually and then vote on them as a group. The first item -- well, actually, first we have postponed items. There are three postponed items.

The first one, BOFA 2001-075, is this the first postponement?

MR. MacGILLIS: Actually, this is the second one. Collene Walter is the agent for Kilday and Associates. I think she's here to speak to this, this second request. Both 75 and 76 are tied together, these petitions.

They're requesting, I believe, an additional 30 days?

MS. WALTER: Yes, we are. Good morning. Collene Walter with Kilday & Associates.

These two petitions are related. One of the property owners is the Cypress Island Property Owners' Association. They have not had an opportunity to convene all of their membership to review the Petition and be able to issue a consent for the application to go forward.

They're hoping to do that now that the season is upon us and most of their membership is back in town. So we're requesting an additional 30 day postponement to be able to get their consent.

CHAIRMAN BASEHART: Okay. Well, if we don't have proper consent, we don't really have the ability to hear it anyway, right?

MR. MacGILLIS: That's correct.

CHAIRMAN BASEHART: Okay. And that stands for -- that's for both of them?

MS. WALTER: That's correct.

CHAIRMAN BASEHART: Okay. Any member have a problem with postponing this another 30 days?

(No response.)

CHAIRMAN BASEHART: Okay. Both 075 and 076 we'll say are postponed until the December meeting.

MS. WALTER: Great. Thank you very much.

CHAIRMAN BASEHART: Thank you.

MR. MacGILLIS: That'll be December 20th, 2001.

CHAIRMAN BASEHART: December 20th, all right. It's almost the end of the year, isn't it?

CHAIRMAN BASEHART: Next item or last item requested for postponement is 2001-085.

Jon?

MR. MacGILLIS: This is the first request for postponement. Helen LaValley is the agent for this one, too. Apparently, staff has tried to work out some final concerns from the Coastal Construction Line and from several neighbors we got calls from.

MS. LaVALLEY: Yeah, so they're seeking more information.

CHAIRMAN BASEHART: Okay. Generally, the first postponement is a matter of right?

MR. MacGILLIS: Yes. The staff supports the 30 day postponement to December 20th, 2001.

CHAIRMAN BASEHART: Okay. So we'll postpone this to the December 20th meeting as well.

CHAIRMAN BASEHART: That gets us to the consent agenda. The first item on the agenda is BOFA 2001-077. Richard R. Nevitte, Jr. Is the applicant here?

MR. NEVITTE: Yes.

CHAIRMAN BASEHART: If you can step forward, please?

While you're on your way, the staff has recommended approval of your variances with four conditions. Are you familiar with those conditions?

MR. NEVITTE: Yes, sir, we are.

CHAIRMAN BASEHART: Your name for the record?

MR. NEVITTE: Richard Nevitte and this is Annette Fulwood.

CHAIRMAN BASEHART: Thanks. You agree with the conditions?

MR. NEVITTE: Yes, sir.

CHAIRMAN BASEHART: Are there any letters?

MR. MacGILLIS: There are no letters or calls on this item.

CHAIRMAN BASEHART: Any member of the Board have any reason that you feel this needs a full hearing?

(No response.)

CHAIRMAN BASEHART: Seeing none, is there any member of the public here to object to this item?

(No response.)

CHAIRMAN BASEHART: Since there are none, we'll leave this on the consent agenda.

MR. NEVITTE: Thank you. Are we done?

CHAIRMAN BASEHART: Well, we're going to vote on all of them as a group when we're done going through each one, but you don't have anything more that you have to do.

MR. NEVITTE: Okay. Thank you.

MS. FULWOOD: Thank you.

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 5.7.3 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 surrounding this lot and existing structure

that warrant special consideration when applying the literal intent of the AR Zoning District front setback. The proposed detached garage will be 38.77 feet from the right-of-way, which necessitates a variance of 61.23 feet. If the AR front setbacks were applied to the parcel the setback line would be in the existing lake. The existing SFD was constructed in the only available location on site. To preserve the dense natural vegetation on site, the property owner is proposing to remodel an existing accessory building to a detached garage.

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

NO. The current owner purchased the property in its current configuration in July 2001. The existing accessory building has been on the property since 1961 according to Property Appraiser records and may have existed as early as 1959. During that time period the front setback for agricultural land was 30 feet. According to Building Permit records for the conforming SFD constructed in 1985, an existing SFD was to be converted into an accessory structure, and any kitchen facilities were to be removed prior to the Certificate of Occupancy for the new SFD. The Certificate of Occupancy was issued 10/7/85, therefore it is assumed that the condition was met. A large portion of the property is covered by an existing lake and dense natural vegetation.

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 conversion of an accessory building to a detached garage is a permitted use in the AR Zoning District and is a reasonable use for a conforming SFD. The property owner is unable to meet the required front setback due to an existing lake and dense natural vegetation. The property owner will mitigate the effect on surrounding areas by using landscaping as a condition of approval.

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 owners request for a detached garage is a reasonable request for the AR Zoning District. This lot is one of the few AR zoned lots in the area. A large portion of the surrounding area is developed as Planned Unit Developments with residences that have garages. The intent of the ULDC to provide a minimum setback to assure conformity, would not be compromised, since many of the surrounding zoning districts are developed at 25 feet setbacks. The property owner would be willing to meet the AR Zoning District setbacks, however a large lake precludes the owner from doing that.

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 owner is proposing to remodel an existing accessory building to use as a detached garage. Moving the proposed garage further back would encroach on an existing lake, and would still require a variance. Remodeling the accessory building will allow the owner to preserve the dense natural vegetation that is present on site. The property owner will mitigate the effect on surrounding areas by using landscaping as a condition of approval.

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

YES. The intent of the front setback requirement is to assure conformity along property lines. This lot is one of the few AR zoned lots in the area. A large portion of the surrounding area is developed as Planned Unit Developments with residences that have garages. The intent of the ULDC to provide a minimum setback to assure conformity would not be compromised since

many of the surrounding zoning districts are developed at 25 feet setbacks. The property owner would be willing to meet the AR Zoning District setbacks, however a large lake precludes the owner from doing that.

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

NO. The conversion of the accessory building to a detached garage will preserve the residential character of the surrounding neighborhood. The proposed detached garage will have a front setback of 38.77 feet. The property owner will mitigate the effect on surrounding areas by using landscaping as a condition of approval. The improvements to the structure will improve the facade and complement the existing SFD.

ENGINEERING COMMENT

No comments. (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. By November 15, 2002, the applicant shall obtain a building permit for the proposed garage conversion in order to vest the front setback variance approved pursuant to BA2001-077. **(DATE:MONITORING-ZONING-BA)**
3. Prior to February 15, 2003, or before the Certificate of Occupancy on the garage conversion and addition, the applicant shall paint the garage to match the existing SFD, install a driveway, and install landscaping between the detached garage and Old Military Trail to mitigate the encroachment. The landscaping shall utilize native material and match the landscaping surrounding the existing SFD. **(DATE:MONITORING-BLDG INSPECTIONS)**

4. Prior to the Certificate of Occupancy on the garage, the applicant shall install a 36 inch hedge between the street and garage. The hedge shall extend along the property line to mitigate the setback encroachment. The hedge shall be maintained at all times to ensure buffering from the street. **(DATE: MONITORING-BLDG INSPECTION-CO)**

CHAIRMAN BASEHART: Next item is BOFA 2001-078, Stanley Miller.

VICE-CHAIRMAN KONYK: You might want to wait because they'll have paperwork for you. So you might want to wait till we vote.

MR. NEVITTE: Thank you.

CHAIRMAN BASEHART: Your name for the record?

MR. MILLER: My name is Stanley P. Miller, S.P. Miller Associates, Inc.

CHAIRMAN BASEHART: Okay. The staff has recommended approval with three conditions. Are you familiar with them?

MR. MILLER: I have not received the conditions.

CHAIRMAN BASEHART: Okay. Well, while we go through the other items, you might want to look at them because if you do agree with them you can be left on consent. If you don't agree with them, then we're going to need to have a full hearing.

MR. MILLER: Okay.

CHAIRMAN BASEHART: So why don't you meet that gentleman over there and take a look at the conditions?

MR. MILLER: Thank you.

CHAIRMAN BASEHART: We'll come back to that one.

CHAIRMAN BASEHART: Next one is BOFA 2001-079, Eleanor Halperin.

Hello, Elly,

MS. HALPERIN: Good morning.

CHAIRMAN BASEHART: Staff has recommended approval of your application with three conditions. Are you familiar with them?

MS. HALPERIN: Yes, my client accepts the conditions.

CHAIRMAN BASEHART: They're accepted. Any member of the public here to object to this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, are there any letters?

MR. MacGILLIS: There were no letters.

CHAIRMAN BASEHART: Any member of the Board feel there needs to be a hearing on this?

(No response.)

CHAIRMAN BASEHART: Okay. We'll leave this 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 5.7.3 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 and characteristics related to this Mobile Home Park that warrant special consideration as it related to separation between units and to the side corner setback. The subject was approved in two phases with 150 units by the Board of County Commissioners in 1976 (Pet.

76-016). The current lot size are 44'x87.5' for the larger lots and 34'x87.5' for the smaller lots. This 22.31 mobile home park is located at northeast corner of State Road 80 and State Road 715 and has a land use designation of HR8 and zoning classification of RS. The applicant is seeking both variances for the replacement of old units with new wider units in the entire Mobile Home Park. The applicant stated in the justification that the newer model mobile home currently being manufactured are larger than the existing models. This places a hardship on the mobile home park owner and residents. As each unit is replaced a new tie down permit is required for the mobile home. If the larger replacement unit cannot meet the approved 20 foot separation of 20 foot side corner setback on the Master Plan a variance is required. The granting of this variance would ensure consistency in the park with respect to setback separations as the units are changed out as well it would take the burden of the applicant and residents to have to apply for a variance for each unit.

Therefore, the uniqueness to this Park and request is that the project was approved and built 30 years ago pursuant to regulations that were applicable to this development. However, as industry standards have changed for the manufacturing of mobile homes the size has also increased. The separations/setbacks established 30 years ago are placing an undue hardship on the park. The variance application is to request the setback/separation be amended for the park to be consistent with the requirements of parks being approved and built today.

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

NO. The special circumstances **are not** the result of the actions of the applicant. As stated previously, the applicant complies with the previous 1973 Zoning Code requirements and approved Site Plans for this park. However, since 1976, the mobile home industry has increased the width of the mobile they manufacture. Therefore, the residents replacing existing mobile homes are

faced with the hardship of not being able to meet the separation setbacks shown on the approved site plan. In November 1997, the Board of Adjustment approved variances (BA 97-100) within the subject mobile home park. The variance request was to allow a mobile home to encroach into the required side interior separation distance between mobile homes on the north side by 2' and south side by 1.7'. Considering the fact that the mobile homes are larger today than the existing units, granting the variance will allow the applicant to resolve current and future issues regarding setback separation between mobile homes within the Mobile Home Park.

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. Granting the variance **will not** confer special privileges upon the applicant. Allowing the applicant to replace existing outdated mobile home with new units is still in-keeping with the residential character of the neighborhood. The reduction of separation between mobile home and side corner setback will allow the park owner and residents the ability to replace existing mobile homes with permits without the need to apply for individual variances each time. Having to apply for individual variances would be extremely difficult for the mobile home resident since they only lease the land and would need authorization each time from the mobile park owner. Also, when a permit is applied for the mobile home is typically transported within days. The variance process takes approximately two months to apply and obtain the variance.

The granting of this "blanket variance" request for the side corner setback and side separation variance is simply recognizing that the size of the replacement mobile homes cannot be accommodated on the existing lots.

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 applicant is requesting a "blanket" variance to reduce the side corner setback and separation distance between new mobile home units to 10 feet within the Mobile Home Park. The applicant request is based on the fact that the mobile homes are larger today than the existing units. The appearance of the Mobile Home Park will in all intents and purposes remain the same. The existing residents will be able to continue to enjoy living in their community with an improved quality of life as they are permitted to replace existing outdated mobile homes. Over the past several years Building Department was unable to issue permits for new mobile home because they do not meet the 20' setback separation requirement. Denial of this variance will require the applicant to lease only older mobile homes which eventually may become unsafe, scare, and will decrease the value and appearance of the mobile home park.

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 stated above, the variance is the minimum variance that would allow a reasonable use of the mobile home park. The current ULDC allows minimum 10' separation distance between mobile homes. The lots are 44'x87.5' for the larger lots and 34'x87.5' for the smaller lots which eliminates other site design options since only a mobile home can be placed on these lots. Approving this variance will allow the property owner to improve the mobile home park in terms of appearance and functionality.

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

YES. The purpose and intent of the Mobile Home Park regulations are to promote the efficient design of mobile home communities which provide enlightened and imaginative approaches to community planning and accommodate the housing needs of those residents who prefer mobile home living and those who desire an economic alternative to conventional dwellings. The objective of setback and separation requirements is to ensure uniformity and to protect adjacent property owners. Granting the variance will be consistent with the general intent of the setback requirement for the minimum separation between mobile homes pursuant to the ULDC.

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

NO. The applicant is requesting that all replacement units have a reduced separation between adjacent units and side corner setback for corner lots. Granting this variance **will not be** injurious to the surrounding neighborhood. Also approving this variance will recognize the limitations of the sites are due to the mobile home manufacturers who increased the width of the new mobile homes over the past 25 years. The appearance of the mobile home park will improve and will also result of a higher quality of life for the family in the overall Mobile Home Park.

ENGINEERING COMMENT

No Comment (ENG).

ZONING CONDITIONS

1. By December 15, 2001, the applicant shall the Site Plans on file for the Mobile Home Park to reflect the new "typical" for the unit layout on the lots and ensure the BA conditions are placed on the plan. The variance shall be vested for all units once the Site Plans are amended with the DRC Section. **(DATE:MONITORING-DRC)**

2. The variance BA2001-079 is limited to the separation between mobile homes and the side corner (street) setback. All other mobile home regulations shall be complied with, consistent with the Master Plan approval of Petition 76-16, 715 Mobile Home Park. **(ONGOING)**
3. Staff recommends the owner of the Mobile Home Park notify the residents of the change to the setback/separation. **(ONGOING)**

CHAIRMAN BASEHART: Next item is BOFA 2001-082, Tonya Rector. Name?

MS. RECTOR: Tonya Rector.

CHAIRMAN BASEHART: Okay. Ms. Rector, staff has recommended approval of your application with three conditions. Are you familiar with them?

MS. RECTOR: Yes, I am.

CHAIRMAN BASEHART: Do you agree with them?

MS. RECTOR: Absolutely.

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

(No response.)

CHAIRMAN BASEHART: Any letters?

MR. MacGILLIS: There was just one letter for clarification, which staff provided.

CHAIRMAN BASEHART: Okay. Any member of the Board feel a hearing needs to be held on this?

(No response.)

CHAIRMAN BASEHART: Seeing none, we'll leave this on consent as well.

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 5.7.3
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 neighborhood supports single family lots and is predominantly equestrian in nature. Many surrounding residents in this characteristic rural residential community also enjoy similar accessory structures. Many lots support clusters of native pine and shade trees which embellish and often screen existing on-site structures. As previously stated, the subject 12.0' by 12.0' wood shed is located at the southeast corner of the property. The shed is used for dry storage for hay, feed, lawn equipment and horse tack and shelter for two horses during inclement weather. The shed is too large for easy disassembly and reconstruction to another site location. The shed was installed on the lot prior to the current owner purchase in 2000. Recently, Code Enforcement Division sent a Violation Notice to the property owner (C0106060026) informing him that the structure was not meeting rear setbacks and that no building permit was on file for the shed; that correction was necessary or that a variance would be needed. The applicant is requesting a variance in order to address the Code Enforcement Notice and in order to apply for a permit and inspection. The general intent of the code regarding setbacks and separation of structures is met by current setbacks in conjunction with existing buffers. Large pines and shrubs buffer the residence to the south. Adjacent neighbors have made no complaints of the shed which has existed on the site for approximately 14 years.

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

NO. The applicant was not aware that setbacks, permits and inspections for the shed were not met since the shed was installed on the lot prior to the current owner's purchase in 2000. The shed

dimensions re 12'x12' and are a minor incursion considering the length of the property line of 390; less than a 3% incursion. The applicant was informed by Code Enforcement (C0107060026) that a permit had not been issued and the shed encroached into the rear setback contradictory to established codes. Considering the applicant purchased the property with the shed existing on site, the variance request is not the result of the applicant. If the variance is granted the applicant will obtain all necessary permits and inspections for the storage shed.

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 applicant states that the shed is used for dry storage of hay, feed, lawn equipment and horse tack; and shelter for two horses during inclement weather. Granting this variance would not confer a special privilege to the property owner since a shed is a typical accessory structure on single family lots and is commonly enjoyed by other residents in the neighborhood. The intent of setbacks is to maintain separation between structures. Since the adjoining property supports no structures within 30 feet from the location of the existing shed, the intent of setback separation has been met. The existing native landscaping provides visual buffering of the structure from adjacent properties. Therefore, the granting of this variance will not confer a 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 would not only deprive this property owner the use of a shed, it would cause a hardship in the fact

that the applicant was not aware the previous owner had not secured the appropriate setback and permits for the shed construction. The applicant is trying to rectify the mistake by applying for a building permit. In order to legalize the structure, however, the variance for the rear setback must be granted prior to the issuance of the building permit.

5. THE APPROVAL OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:
YES. Approval of the rear setback variance of 11.6' would allow the existing structure to remain on the lot. The shed has no openings facing the adjoining property to the south (area of encroachment). The applicant would be required to obtain all necessary building permits and inspections to ensure the structures meet the building code. Therefore, the 11.6 foot setback variance is the minimum necessary in order for the owner not to have to demolish the shed.
6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:
YES. The intent of the side and rear setbacks is to ensure light and air can move between structures and that a minimum separation between properties and structures is maintained for visual separation, privacy, and noise reduction. The general intent of the code regarding setbacks and separation of structures is met by current setbacks in conjunction with existing buffers. Mature pines and shrubs buffer the residence to the south. Adjacent neighbors have made no complaints regarding the shed which has been existing for approximately 14 years.
7. THE GRANT OF THE VARIANCE WILL BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:
NO. The structure has existed for approximately 14 years and the applicant was only recently notified of the encroachment by Code Enforcement. Granting the variance will

therefore not be detrimental to the public welfare.

ENGINEERING COMMENT

No Comment (ENG).

THE LOXAHATCHEE NEIGHBORHOOD PLAN COMMENT

The proposal does not negatively impact the recommendations of the Loxahatchee Neighborhood Plan.

ZONING CONDITIONS

1. By November 15, 2001, the property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Survey/Site Plan (Exhibit 10) presented to the Board, simultaneously with the building permit application for the shed. **(DATE: MONITORING-BLDG PERMIT)**
2. By February 15, 2002, the applicant shall obtain a building permit for the shed. **(DATE: MONITORING-BLDG PERMIT)**.
3. By April 15, 2002, the applicant shall have obtained the first building inspection for the shed in order to vest the setback variance and resolve the Code Enforcement Case C0107060026. **(DATE: MONITORING-INSPECTION-CODE ENFORCEMENT)**.

CHAIRMAN BASEHART: Next item is BOFA 2001-083, Gregory Kino, who just barely made it.

Mr. Kino.

MR. KINO: Yes.

CHAIRMAN BASEHART: For the record the staff has recommended approval of your application with

five conditions. Are you familiar with them?

MR. KINO: Yes, I am.

CHAIRMAN BASEHART: Do you agree with them?

MR. KINO: For the record, all conditions are acceptable to us.

CHAIRMAN BASEHART: That being said, is there any member of the public here to object to this item?
(No response.)

CHAIRMAN BASEHART: None being here, any letters of objection?

MR. MacGILLIS: Just three calls, one strongly encouraging approval.

CHAIRMAN BASEHART: Any member of the Board feel that a hearing needs to be held on this item?

VICE-CHAIRMAN KONYK: She needs them to be quiet over there. She can't hear.

CHAIRMAN BASEHART: Okay. If we could keep discussion down in the back so that the court reporter can record the meeting. Thank you.

Any member of the Board feel this needs to be -- okay. We'll leave this on consent.

MR. KINO: Great. Thank you.

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 5.7.3 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 1.01 acre irregular shaped site is located at the southwest corner of Westgate Ave. and Quail Dr., within the Westgate/Belvedere Homes Overlay District. Both Westgate Avenue and Quail Drive were recently improved to accommodate and promoted redevelopment. In 1995 the County realigned Quail Drive through this property so it would align with Indian Road north of Westgate Avenue. In doing so the lot was created from the larger parcel that now exists to the east

Quail Drive. This 1.01 acre corner lot has an irregular configuration that limits possible design options to avoid the need for variances. The site is currently vacant and abuts street on 3 property lines. The site has a Land Use Designation of HR (High Residential) and a RH (Residential High Density) Zoning classification. The lot has frontage and access onto Quail Drive, a 60 foot wide street. The lot has 165 feet fronting onto Quail Drive, a 60 foot wide street. The lot has 165 feet fronting onto Westgate Avenue and a depth of 228 feet. The property has limitations in terms of site design options due to its configuration and location adjacent to streets.

The applicant is currently in the process of applying for a Conditional Use (CB2001-039) to allow 7,900 square foot child day care center. The Zoning Commission will consider the Conditional Use later this month. Staff is recommending approval of the request with conditions related to the use, landscaping, number of students, etc. See backup material for Staff Report for Zoning Commission.

Recommended Zoning Staff Conditions for Zoning Commission approval of Day Care related to landscaping:

LANDSCAPING AND BUFFERING ALONG THE NORTH AND EAST PROPERTY LINES (WESTGATE AVENUE AND QUAIL DRIVE FRONTAGES)

1. Landscaping and buffering along the north and east property lines:
 - a. A minimum fifteen (15) feet wide landscape buffer strip;
 - b. A two (2) foot high continuous berm measured from top of curb. Field adjustment of the berm may be permitted for existing trees;
 - c. One (1) canopy tree for each thirty (30) linear feet of the frontage;
 - d. One (1) palm or pine tree for each thirty (30) linear feet of the frontage with a maximum spacing of sixty (60) feet between clusters;
 - e. One (1) small shrub for each two (2) linear feet of the frontage. Shrub shall be a minimum height of twenty-four (24) inches at installation; and

f. One (1) large/medium shrub for each four (4) linear feet of the frontage. Shrub shall be a minimum height of thirty (30) inches at installation. (CO:LANDSCAPE)

J. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the west property line shall include:

- a. A minimum ten (10) foot wide landscape buffer strip. Width reduction may be permitted subject to Board of Adjustment;
- b. One (1) booted sabal palm planted for each ten (10) linear feet of the property line;
- c. One (1) large/medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation and to be maintained at a minimum height of seventy-two (72) inches in height. (CO:LANDSCAPE)

K. LANDSCAPING-VARIANCE

1. Prior to final DRC certification of the site plan, the petitioner shall obtain approval from the Board of Adjustment of the following:

- a. landscape buffer along the west property line -- width reduction from ten (10) feet to five (5) feet;
- b. landscape buffer along the west property line -- canopy trees be replaced with booted sabal palm; and
- c. should the Petitioner fail to obtain variance for Condition K.1.a, the petitioner shall comply with Condition J.1.a (DRC/CO:LANDSCAPE)

The building is proposed to be located along the south end of the property with access from Quail Drive immediately in front of the building. The required 25 off street parking spaces are all proposed in front of the building. The required 600 square feet of outdoor play area is located to the south of the building and will be fenced and landscaped from Quail Drive.

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

NO. The applicant is proposing to develop the property according to Palm Beach County regulations. The applicant cannot obtain more land from this development to meet the required 15' buffer along all the southeast property line or the 10' buffer along the west property line. The existing 20' Palm Beach County utility easement along the west property line and right-of-way along the east present hardship to the applicant in order to meet the required landscape buffer width. The variance is limited to only that necessary to make the final site plan function properly without having to reduce size of the proposed day care center.

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 applicant has demonstrated compliance with the criteria necessary to be granted the three variances. The subject property is in the revitalization and redevelopment overlay of Urban/Suburban tier and Westgate Overlay District. The lot has a land use designation of (HR) with a (RH) Zoning classification. The property will be developed in accordance with current development regulations for a 7,900 square foot day care for 96 children. The applicant is proposing to reduce only a portion of the eastern buffer along Quail Drive where the proposed building and play area would otherwise overlap. While along the western property line there is an existing platted overhead utility line of 20 feet. The PBC Water Utilities Department does not allow canopy trees above underground utilities. Therefore, the applicant is proposing to replace the canopy trees with native palms. Native palm roots are shallower than shade trees such as oak or mahogany. This mitigates the vegetative planting within the easement by ensuring that root and canopies do not rupture water or sewer lines and branch into the overhead lines. The applicant is requesting the minimum variances that will allow this day care center to obtain all the necessary approvals.

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 applicant is proposing a non profit 7,900 square foot day care building to be located on this vacant lot with 6,036 square feet of outdoor play area and 25 parking spaces. This day care will provide a needed service to the surrounding neighborhood. As previously stated, the PBC Water Utilities place limitations on the applicant that cannot be overcome, creating the need for the requested variance to substitute shade trees with booted sabal palms and reducing the width of the buffer along the western property line. Due to the configuration of the lot and existing constraint surrounding it, the applicant is proposing both reduction buffers variance along the east and west property line, in order to keep its capacity and have more play area for the children. If the variances are denied, the applicant would have to reduce its capacity by many children, reduce the play to remove the southeast corner of the building from the eastern landscape buffer.

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 Zoning Division staff is recommending approval of the Day Care Center to the Zoning Commission later this month with conditions of approval. The proposed day care center is consistent with the intent of the Comprehensive Plan and ULDC. Considering configuration, the size and existing constraints imposed on the applicant by existing easement and right-a-way in proximity to this project, granting the three variances is the minimum that will allow a reasonable use of the parcel of land.

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

CODE:

YES. The applicant has currently in the Zoning review process for Petition CB-2001-039 for the day care. The 7,900 sq ft day care center will comply with all land use and zoning regulations. The literal intent of the landscape code is to establish minimum widths for buffers to accommodate more vegetation to mitigate visual impacts on adjacent properties. The applicant is proposing only to reduce the buffer width along the south 180 feet from the side door of the proposed day care of the east property line to the south, adjacent to the east property line. There is an existing 6' concrete sidewalk, a 45' Quail drive right of way and an approximately 3 acre lake. Along the west property line there is a 20' wide utility easement and a vacant lot behind that easement. With the landscape conditions recommended by the Zoning Commission, granting the variance **will be** consistent with the general purpose of the comprehensive plan and the ULDC provisions.

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

NO. Granting the variance **will not be** injurious to the general surrounding area. The Zoning Division staff is recommending approval of the Conditional Use B for the day care center going to the Zoning Commission later this month. Staff has determined the proposed day care center complies with all standards imposed by all applicable provisions of the ULDC for use, function and general development characteristics. The request is consistent with existing uses, character and zones of land surrounding and vicinity of subject property and the appropriate zoning district for the subject property.

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. By September 15, 2002, the applicant shall obtain a building permit for the 7,900 square foot day care center in order to vest the three landscape variances approved pursuant to BA2001-083. **(DATE:MONITORING-BLDG PERMIT)**
3. Prior to DRC certification, the applicant shall ensure the BOFA conditions are shown on the site plan. **(DRC)**
4. This variance BA2001-083 is limited to the right-of-way reduction along Quail Drive and the buffer and tree planting along the western property line as shown on Site Plan, Exhibit 9, in BA2001-083 file in the zoning Division. **(ONGOING)**
5. The requested landscape variances are approved subject to the upgraded plant material as required by Conditional Use B approval CB2001-039, H, I, J, K and L. Any modifications to these conditions to the Zoning Commission shall ensure the quantity and size of the plant material in the eastern and western buffer are not reduced. The variances were approved subject to the Zoning Commission conditions imposed on the CB Day Care approval. **(ONGOING)**

CHAIRMAN BASEHART: Next item is 2001-084, Ms. LaValley again.

MS. LaVALLEY: Thank you and good morning.

CHAIRMAN BASEHART: Good morning. For the record, the staff is recommending approval with four conditions. Are you familiar with them?

MS. LaVALLEY: Yes, and we agree with them.

CHAIRMAN BASEHART: You agree with them. Any member of the public here that would like this item heard?

(No response.)

CHAIRMAN BASEHART: Seeing none, any letters?

MR. MacGILLIS: No letters.

CHAIRMAN BASEHART: Any member of the Board feels this needs to be pulled?

(No response.)

CHAIRMAN BASEHART: We'll leave this on consent as well.

MS. LaVALLEY: Thank you.

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 5.7.3 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 property is located within Horseshoe Acres subdivision, which is part of the PB Farms Plat No. 3. The subdivision is located approximately .03 miles west of the Florida Turnpike and .19 miles north of Clint Moore Road. The land use designation is AGR and the zoning classification is AGR. This subdivision was part of the County initiated rezoning (Pet.97-120, Resolution 98-851 that rezoned the property from AR to AGR. The subdivision has access from Clint Moore Road and Wagon Wheel Drive by Stage Coach Lane. The subdivision supports approximately 66 single family lots. The lots are typically 5 acres in size or larger. However, some lots are larger as a result of a property owner buying and combining lots or smaller as the result of a property owner subdividing the lot prior to 1973 into 1.5 acre lots. The subdivision is rural in character with

tree lined streets, large homes setback off the street, barns and paddocks.

What is unique about the subdivision and lot is the fact that the land use and zoning designation was recently amended by the county. When the land use and zoning was amended many of the structures became legal non-conforming. The original dwelling was constructed at the A-1 setbacks, which permitted a front setback of 30 feet. However, any improvements to this structure must now comply with the AGR 100 foot setback, if the literal application of the code is applied. This will place a hardship on the applicant since the proposed garage addition to the east side of the dwelling which will align with the existing front setback line would not be allowed.

Therefore, special circumstances and conditions do exist which are peculiar to this parcel of land which are not applicable to other parcels within the same zoning district. The SFD located on the subject lot was constructed in 1973 when the district was zoned A1 (Agricultural District). The existing setbacks are a result of zoning regulations under the A1 designation. Zoning in this district has since changed to AGR (Agricultural Reserve). Thus, the applicant's home is unable to meet AGR setback requirements as it was constructed according to A1 standards.

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

NO. As previously mentioned, the zoning designation in the applicant's district was recently amended by Palm Beach County in 1998. When the original dwelling was constructed in 1973, it was permitted a front setback of 30 feet which the existing house met at the time. The applicant is proposing to do renovations to this 28 year old home that can only be accomplished if a variance is granted. The proposal will be consistent with the existing dwelling setbacks. The applicant could only construct the addition if it were added in the rear yard, since the entire existing house is in the 100 foot

setback. Therefore, this is not a realistic solution and if the variance is granted the applicant can proceed with the renovations and addition that will allow them the best use of the property and dwelling.

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. Granting of the variance requested **shall not** confer upon the applicants special privileges denied by the comprehensive plan and this code to other parcels of land in the same district. The Comprehensive Plan permits additions to single family dwellings in this district. Other properties in the AGR zoning district and general neighborhood have single family dwellings with similar square footage. The proposed expansion to this existing legal non-conforming dwelling will not create an impact on the surrounding neighborhood. The hardship created on the applicant is the fact the land use and zoning classification were recently amended by the County resulting in the entire existing house encroaching into the current 100 foot setback. To enforce the literal 100 foot front setback would preclude any reasonable renovations or improvements to the exterior of the dwelling. The applicant's improvements and addition will simply allow them to enjoy their property to the greatest extent possible.

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 and enforcement of the terms and provisions of the code **would** deprive the applicants of rights commonly enjoyed by other parcels of land in the same district. The setbacks in the AGR zoning district were established for a minimum 5 acre lot. The lot dimensions are

300 feet deep and 300 feet wide which would allow for a 100 foot front and rear setback. The subject lot is 2.5 acres and has a legal non-conforming structure constructed at a 26.4 foot setback. The 30 foot setback was applied to many of the homes built prior to the zoning change in 1998. The proposed renovations to this property will basically have the garage addition aligning with the existing front facade setback at 26.4 feet. Therefore the existing uniformity along the street will be maintained and adjacent property values and existing separations will be maintained.

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 variance requested **is** the minimum necessary to allow a reasonable use of the parcel of land and to allow the proposed renovations to the house to move forward. Due to the structural design and layout of the existing house there is no reasonable alternative location for the proposed garage. The proposed garage is minimal and remains in keeping with the character of the other houses in the neighborhood.
6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:
YES. Granting of the variance **will be** consistent with the purposes, goals, objectives and policies of the Comprehensive Plan and the ULDC. The intent of establishing and maintaining front setback line is to ensure consistency along the street. When the original dwelling was constructed in 1973, the land use and zoning permitted only a 30 foot setback on this lot. However, the current AGR land use and zoning requires a 100 feet. There are homes in this rural subdivision constructed at varying front setbacks because of the change in land use and zoning in this area over the past 50 years. The applicant's proposal simply aligns the garage addition to the same front setback line as the existing dwelling. There

will be no significant impact on the street by these proposed improvements to the dwelling.

The required front setback for this property is 100 feet. As a legal nonconforming structure, the existing front setback is 26.4 feet from the road easement and the proposed front setback is 26.4 feet for the addition to the house. The proposed setbacks are sufficient to be consistent with the original approval and the general intent of the front setback for this community.

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

NO. The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Adjacent to the property to the east, where the garage addition is proposed, is the Florida Turnpike. The properties to the south and west are 2.5 acre lots. The property to the north is a 5 acre lot. The surrounding neighbors will not be negatively impacted by the approval of this variance request. The proposed front setbacks will be in keeping with the original setbacks applied to the existing dwelling and generally in character with other homes constructed with a 30 foot setback.

ENGINEERING COMMENT

The Base Building Line for Stagecoach Lane is hereby confirmed as being the existing interior easement line, being 30 feet north from the south property line of the subject lot. **(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. By September 15, 2002, the applicant shall apply for a building permit for the proposed garage addition to the existing single family dwelling. **(DATE:MONITORING-BLDG PERMIT)**
3. By October 15, 2002, the applicant shall obtain a building permit for the proposed garage addition to the existing single family dwelling in order to vest the approved variances. **(DATE:MONITORING-BLDG PERMIT)**
4. All improvements to the existing dwelling shall be consistent with the setbacks shown on Exhibit 9, in the Board of Adjustment File BA2001-084. **(BLDG PERMIT)**

CHAIRMAN BASEHART: BOFA2001-086, Land Design South.

MR. MacGILLIS: One minor change on page 88 of the conditions.

CHAIRMAN BASEHART: Okay.

MR. MacGILLIS: Number 4 should read by July 15, 2002. Condition Number 6 should read by July 15, 2002. The applicant's in agreement with this.

Just also for the record, I don't know if the Board needs it, but they did submit elevations of the proposed landscaping that staff had requested. We have exhibits here that we are concerned with.

This is an existing use that they're coming in and retrofitting it with a new use and we were concerned with the landscaping, and they provided staff with elevations and stuff, the proposed landscaping along major streets.

CHAIRMAN BASEHART: And that will be part of the record?

MR. MacGILLIS: Yes, that will be Exhibit 24, which is the proposed landscape elevation.

CHAIRMAN BASEHART: And you agree that that's part of the record?

MS. MORTON: That's correct.

CHAIRMAN BASEHART: Okay. Name?

MS. MORTON: Jennifer Morton with Land Design

South.

CHAIRMAN BASEHART: The staff has recommended approval with six conditions as amended, which Jon just explained here. Do you agree with the conditions?

MS. MORTON: Yes, we do.

CHAIRMAN BASEHART: Okay. Is there any member of the public here to object to this item?

(No response.)

CHAIRMAN BASEHART: Any letters?

MR. MacGILLIS: No letters.

CHAIRMAN BASEHART: Any member of the Board feel this needs to be pulled?

(No response.)

CHAIRMAN BASEHART: We'll leave this on consent as well.

MS. MORTON: Thank you.

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 5.7.3 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. This 2.73 acre property is located approximately 1 mile north of Blue Heron Blvd. and east of I-95 at the southeast intersection of Central Industrial Blvd and Prospect Avenue. The property is within the Central Industrial Park Pl 1 N 285 ft of Parcel F with a IND land use designation and IL zoning classification. This area supports primarily industrial uses with both commercial land uses to the west and south. Also, properties to the south east of this site have been annexed into the City of Riviera Beach and support IND land use zoning support IND land use zoning classification. This particular property has streets on three sides of the parcel. With the main entrance to the site being from

Central Industrial Blvd which is along the east side of the property and the rear of the site being from Enterprise Drive to the west. To the north is Prospect Avenue, which the site does not have ingress or egress to. Many of the properties abutting onto both Central Industrial Blvd and Enterprise Drive support office/warehoused industrial uses. In general the sites are well maintained in terms of appears from the street and overall landscape. The particular site has 423 feet of frontage along Central Industrial Drive with two ingress/egress which provide access to the existing 16,147 square foot industrial building and parking lot for large trucks. There is an existing 6 foot chain link fence with barbed wire around the entire perimeter of the site and no landscaping. The site supports many large trucks that are parked on site and repaired within the building. There are 8 bay doors that are open through the building and visible from the street.

The site **has unique characteristics and constraints** that must be considered when applying the literal intent of the landscape code and fence height. The site was originally site planned and constructed in the early 1970s pursuant to the 1973 Zoning Code. The industrial use was permitted in the industrial zoning district and received all the necessary permits for the building and fences. When it was constructed it complied with all code requirements. The site has supported a heavy industrial use for many years. The site has no landscape buffers along any property lines. The site does not comply with many of the current code requirements for the IL zoning district. However, the applicant is prepared to bring the site into compliance to the greatest extent possible. The proposed user, Gator Leasing, currently operates site in south Florida. The owner was attracted to this site due to its location to I-95, the fact it was in an industrial land and zoning designation and the site supported a building and layout conducive to their needs. The applicant intends to utilize the existing building to repair vehicles, while adding square footage to the south end to support the leasing portion of the business. The repair portion of the operation is permitted

in the IL zoning district, however, the vehicle sales and leasing will required a Conditional Use A. The applicant is prepared to submit for the conditional use, however, the requested variances must be obtained prior to submitting the application. The use is currently operating on the site and once the proposed modifications are made to the site it will be compatible with the other light industrial warehouse uses along Central Industrial Drive. The proposed side improvements will significantly improve the overall appearance of this site and reduce many existing legal conformities.

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

NO. The applicant recently purchased the property in July 2001. The site layout and building is existing. The applicant is currently operating his maintenance business from this site. Gator Leasing leases and repairs vehicles for its customers. The applicant purchased the property for its ideal location to I-95, the fact it is within an industrial park and had a building that could be utilized without costly modifications. If the applicant did not require the Conditional use for the sale and leasing portion of the business only an Occupational License would have been required and no upgrades to the site would have been done. However, since the applicant is required to obtain a Conditional Use A the site must be brought up to current code to the greatest extent possible for the new use. The applicant is willing to upgrade the site wherever possible, therefore the variances have been limited to the landscape buffers and existing fence. If these variances are granted costly modification to the parking lot and existing 1,300 feet of fence will not have to be done. The applicant is willing to agree to landscape conditions that will ensure the general intent of the landscape code is met.

Therefore, the granting of the requested variances will simply allow the new owner to operate his business at this location. It will also recognize the existing constraints imposed on the applicant since this site

layout is existing and legally permitted.

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. Granting the variance **will not grant any special privileges** on the applicant. This site is existing and approved pursuant to prior codes. The prior owner operated a heavy industrial use on this site for many years. The site is void on landscaping and considerable outdoor equipment detracted from the overall appearance of this in relation to other uses along adjacent streets. The proposed upgrades to this site will greatly improve the visual appearance from the street. Also, the BCC encourages the rehab of existing use to support new uses. The change is consistent with codes and the applicant is prepared to obtain all necessary approvals and permits for the change in use.

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 granting of the requested variance will recognize the existing layout and constraints imposed on the applicant. The existing site layout was legally permitted in the early 1970s pursuant to the 1973 Zoning Code. The current change in use and requirement for a Conditional Use A, requires the applicant to comply to the greatest extent possible with current codes. The applicant has met with staff to determine what proposed changes would require variances. The variances are limited to the buffers and existing fence. The applicant has agreed to conditions that would ensure the general intent of the code is met if the variances are granted.

Therefore, the granting of the variances,

subject to conditions of approval, will comply with the general intent of the code and allow the owner to pursue all other necessary approvals for this business.

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 granting of the requested variances **will allow a reasonable use** of the existing IL property. The current owner recently purchased the property based on its location and layout. The site and building meet the users business needs. This will be the applicant's first operation in Palm Beach County. Currently, they operate in Broward and Dade Counties. The applicant offers a needed service of truck rental and sales. The location in this industrial park is appropriate and its close proximity to I-95 is vital to this use. The requested variances to the landscape code and fence can be mitigated with conditions of approval to insure the general intent of the code is met while still allowing the applicant the best use of the property.

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

YES. The proposed use **complies with the intent of both the Comp Plan and ULDC** IL land use and zoning requirements. The applicant is prepared to file a Zoning application if the variances are approved to the BCC for a conditional use for the rental/leasing aspect of the business. The repair portion of the business is currently operating from the site. The use is appropriate for this industrial subdivision and will reduce the past heavy industrial use of the property. The current use will support truck sales and services and with the proposed modifications to the site plan will be compatible with the other light industrial office/warehouse uses along the adjacent streets. Both the Comp Plan, ULDC and BCC encourage eastern redevelopment. The proposed use of this site for a permitted and requested industrial use

is consistent with these goals.

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

NO. The granting of the variance **will not be injurious to the surrounding area.** The surrounding area supports IL land uses. Most of those properties support light industrial office/warehouse uses. Many of those properties were developed or retrofitted recently, therefore, they comply with landscape buffers and other code requirements. This site is currently lacking any landscaping and does not present a good image to the other users along the street. With the proposed modifications to the site the changes will make it more compatible and in keeping with the other uses in this industrial park.

ENGINEERING COMMENT

No Comment (ENG)

ZONING CONDITIONS

1. Prior to final DRC certification the landscape buffers along all rights-of-way shall be upgraded as follows:
 - a) Native shade trees planted at 14 feet in height and 30 feet on center supplemented by clusters of 3 sabal palms every 40 feet;
 - b) Ficus hedge planted along all property lines inside the fence at 4 feet and maintained at 6 feet to provide 75% opaqueness;
 - c) Install vines on the outside of the north, east and west property line to visual screen the fence from the street. The vines shall be maintained at all times to accomplish the screening of the fence. **(DRC-LANDSCAPE)**
2. By July 15, 2002, the applicant shall contact the Landscape Section for a final inspection on the landscaping to ensure compliance with the BA approval. **(DATE:MONITORING-LANDSCAPE)**

3. The BCC may impose more stringent conditions related to right of way buffer plant quantities and size in order to mitigate the proposed use. **(ONGOING)**
4. By July 15, 2001, the existing chain link fence shall be painted black to blend in with the required landscaping and reduce the impact on adjacent rights of way and properties. At the time of the required landscape inspection of the fence will be review for compliance with this condition. **(DATE: MONITORING-LANDSCAPE)**
5. All required perimeter landscaping shall be maintained in accordance with Article 7.3.H. Failure to maintain landscaping may result in the lapse of the buffer and fence variances. **(ONGOING)**
6. By July 15, 2001, the applicant shall install 2 feet of fence to top of existing fence along south property line to comply with Article 6.4.D.97, supplementary requirements for screening adjacent to interior property lines for vehicle sales and rental. **(DATE: MONITORING-LANDSCAPE)**

CHAIRMAN BASEHART: We've got one more. Is Mr. Miller here?

MR. MILLER: Yes.

CHAIRMAN BASEHART: Have you gone over the conditions of approval with the staff?

MR. MILLER: Yes, and for the record there are no objections to the recommendations.

CHAIRMAN BASEHART: So you agree with the conditions?

MR. MILLER: I do. Thank you.

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

(No response.)

CHAIRMAN BASEHART: Any letters?

MR. MacGILLIS: There was nine contacts. Two are opposed to it which are a development across the street and they were just objecting to an increase in traffic and stuff.

Just for the Board's information, this was an existing clubhouse addition that was added on without permits years ago, and when they came in to do renovations for it they determined that because of termite damage they had to remove it.

So they're actually coming in to actually reconstruct the addition that was illegally constructed years ago. So there's no impact. It's in a rec building within a mobile home park, so staff doesn't see any validity to the person's concern across the street in the development.

CHAIRMAN BASEHART: Okay. Then no member of the Board feels it needs to be pulled. So we'll leave 2001-078 on consent as well.

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 5.7.3 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 and characteristics related to this property that warrant special consideration. The subject property is located at 8279 East Club Road within the West Lakes Mobile Home Park in a MHPD Zoning District. The Mobile Home Park is approximately .91 acres and supports 180 mobile home lots. The subject clubhouse was constructed by the original developer in the early 1970s and is now owned by the Cooperative Mobile Home Development. At the time of construction, the clubhouse met the required setbacks because the Mobile Home Park was part of a larger parcel of land including the existing Mobile Home Park and

extending to the intersection of Glades Road and Boca Rio Road. The developer subdivided the larger property under Petition P86-150 selling the northern portion of the property for commercial development while retaining the existing mobile home park. Upon this subdivision a shopping center was constructed on the adjacent property and the property lines were created in their current configuration. Thus, the property lines encroached upon the existing clubhouse. Due to the approval of a site plan for the shopping center and the encroachment of the new property lines on the existing clubhouse, the reduced setbacks on the mobile home parcel were subsequently approved.

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

NO. Special circumstances and conditions **are not** the result of actions of the applicant. The aforementioned circumstances are the direct result of the developer subdividing the property and were inherited by the Cooperative Mobile Home Development upon transfer of ownership of the property from developer to current owner. The Cooperative Mobile Home Development entrusted the developer with the responsibility of developing the subject lot and the adjacent property pursuant to and in accordance with all development regulations existing at the time of construction. Furthermore, the reconstruction of the clubhouse is necessary in order to continue to provide the recreational opportunities to the residents of the mobile home park. The Cooperative Mobile Home Development will obtain the proper building permits for the reconstruction if the variances are granted.

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. Granting of the requested variances **will not** confer upon the applicant special privileges denied by the comprehensive plan

and this code to other parcels of land, buildings or structures in the same district. The granting of these variances would relieve the applicant of hardships imposed upon the development by the original developer prior to their ownership of the property. Although it is recognized by staff that the initial construction of the buildings was undertaken without the required building permits, the applicant was not in ownership of the property at the time of construction and entrusted the developer to complete the projects pursuant to the applicable land development codes in place at the time of construction. Furthermore, the approval of the shopping center on the adjacent parcel of land approved the boundaries of the subdivision in their present location. Thus, the location of the property lines in proximity to the subject structures was approved. In this case, the granting of the variances will meet the general intent of the ULDC.

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 ULDC requires mobile home parks to provide recreational opportunities to the residents through the establishment of passive parks or active recreational facilities such as pools, clubhouses, and similar facilities. In this case, the mobile home park has been completely constructed leaving the Cooperative Mobile Home Development no alternative site development options for the recreational attributes of their mobile home park. Furthermore, development of the property was entrusted to the developer of the property, who at the time was also owner. The Cooperative Mobile Home Development was not party to the decisions made by the previous owner. Therefore, the Cooperative Mobile Home Development inherited the hardship created by the previous owner of the property. In the case of granting of the requested variances, the applicant is prepared to obtain the

necessary permits of the addition.

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 granting of these variances will be consistent with the development regulations outlined in the ULDC which require recreation pods within a planned development district. The location of the recreation pod for this development was planned and constructed in the early 1970s. Subsequently, the property has been fully developed around the recreation pod. This leaves the property owner with no alternative site development options to accommodate the required setback for the recreation building. The approval of these variances will also allow the existing clubhouse and the associated uses to continue on the property. The activities held within the clubhouse area provide community programs for the residents of the Mobile Home Park thus creating a positive impact on the community. The encroachment into the required setbacks is mitigated by the location of the shopping mall on the adjacent parcel. The clubhouse abuts the property line located in the rear of the shopping center and has no visual impact on surrounding land uses.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:
YES. Granting of these variances would allow the Mobile Home Park to continue to provide the required recreation facilities for planned development districts pursuant to Article 6.8 of the ULDC. Also, there are no alternative site development options for the subject property since the entire Mobile Home Park has been fully constructed. This establishes these variances as the minimum variances necessary for the reasonable use of the property.

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

NO. Granting of these variances **will not** have any adverse impacts on surrounding development. The encroachment into the said setbacks allows the applicant to maintain the existing use on the property. The location of the clubhouse and other subject buildings is internal to the Mobile Home Park and has no negative visual impact on adjacent properties to the south, west and east. To the north, the site has minimal visual impact on the rear of the shopping mall, which is primarily for deliveries to the stores.

ENGINEERING COMMENT

No comments **(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. By January 15, 2002, the applicant shall amend the certified site plan through the DRC administrative for the pool equipment room, and the rear setback for the laundry room. Also, the BA conditions shall be placed on the site plan. **(DATE:MONITORING-DRC-BA)**
3. By September 15, 2002, the Mobile Home Development shall obtain a building permit for the addition to the club house in order to vest the setback variances, approved subject to BA2001-78. **(DATE:MONITORING-BLDG PERMIT)**

CHAIRMAN BASEHART: Then we're down to the item that we added, Subdivision Variance-101. Sounds like a college course, SD-101.

MR. MCGINLEY: Good morning. Kevin McGinley and we've agreed to all the conditions.

CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?

(No response.)

CHAIRMAN BASEHART: Seeing none, any member of the Board feel this needs to be pulled?

(No response.)

CHAIRMAN BASEHART: Just for the record, I think we need to note that this is, I think, kind of an historic event because I've been on this Board 16 years and I don't remember one Subdivision Variance that the Engineering Department has ever recommended in favor of until now.

MR. PUZZITIELLO: Can we get this framed and put on the wall?

CHAIRMAN BASEHART: Yeah, I think you deserve a certificate.

MR. MCGINLEY: That's just good clean living.

CHAIRMAN BASEHART: Spoken by the church man.

CHAIRMAN BASEHART: Okay. That concludes the agenda. I guess we're ready for a motion to adopt and approve the consent agenda.

VICE-CHAIRMAN KONYK: I guess I'll make the motion. I make a motion to approve BOFA2001-077, BOFA2001-078, BOFA2001-079, BOFA2001-082, BOFA2001-083, BOFA2001-084, BOFA2001-086, and SD-101 remaining on the consent with the staff report becoming part of the record.

CHAIRMAN BASEHART: Motion by Ms. Konyk. Do we have a second?

MR. PUZZITIELLO: Second.

CHAIRMAN BASEHART: Second by Mr. Puzzitiello.

All those in favor indicate by saying aye?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed, no?

(No response.)

CHAIRMAN BASEHART: Motion carries unanimously. So everything on the agenda is approved.

MR. MacGILLIS: Please wait for your letters.

CHAIRMAN BASEHART: Yeah, if everybody can just wait around you'll receive your approval

letters.

And then we can conclude the agenda with one final item and that's the approval of the attendance report for October. There were two members absent at that meeting. Mr. Jacobs was absent because he was on vacation and Mr. Wichinsky was away on business.

Do we have general concurrence that those are excused absences?

MR. PUZZITIELLO: Yes.

CHAIRMAN BASEHART: Okay. That being the case, I think we're ready for adjournment.

VICE-CHAIRMAN KONYK: Well, I think before we adjourn we should recognize Glenn because I don't know if he's going to be here at the next --

MR. WICHINSKY: I'm going to try to be here at the next meeting.

VICE-CHAIRMAN KONYK: Okay. Well, just in case you're not, we're going to miss you and we're sorry that you're not seeking reappointment to this Board. It's not going to seem the same without you.

How many years have you been on the Board?

MR. WICHINSKY: Ten years.

VICE-CHAIRMAN KONYK: Ten years.

CHAIRMAN BASEHART: Wow.

VICE CHAIRMAN KONYK: So that might be a hefty pension, huh?

MR. WICHINSKY: And County, I guess, reimbursement. I've been waiting for that.

CHAIRMAN BASEHART: You're going to have a party, right?

MR. WICHINSKY: I'll see you guys next month, but thanks, Chelle.

VICE CHAIRMAN KONYK: Okay.

MR. PUZZITIELLO: Motion to adjourn.

VICE-CHAIRMAN KONYK: Second.

CHAIRMAN BASEHART: Motion by Mr. Puzzitiello, second by Ms. Konyk to adjourn. All those in favor?

BOARD: Aye.

CHAIRMAN BASEHART: Opposed?

(No response.)

CHAIRMAN BASEHART: Motion carries.

(Whereupon, the meeting was adjourned at 9:25 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 44, 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 10th day of December, 2001.

Sophie M. Springer, Notary Public.