

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, April 18, 2002
9:05 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

Chelle Konyk, Chairman

Robert E. Basehart, Vice Chairman

Mr. Raymond Puzzitiello

Mr. Bart Cunningham

Ms. Nancy Cardone

Mr. Joseph Jacobs

Mr. William Sadoff

Jon MacGillis, Principal Planner

David Cuffe, Civil Engineer II, Land Development

Amy Petrick, Asst. County Attorney

Alan Seaman, Senior Planner, Zoning

Miradieu Aubourg, Jr., Planner I, Zoning

Damon Kolb, Planner I, Zoning

Juanita James, Secretary

Cacey Ryun, Secretary

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CERTIFICATE OF REPORTER:

P R O C E E D I N G S

CHAIRMAN KONYK: I'd like to call to order the April 18th, 2002 Palm Beach County Board of Adjustment Meeting.

We'll start with the roll call and the declaration of quorum.

MS. JAMES: Bart Cunningham.

MR. CUNNINGHAM: Here.

MS. JAMES: William Sadoff.

MR. SADOFF: Here.

MS. JAMES: Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. JAMES: Chelle Konyk.

CHAIRMAN KONYK: Here.

MS. JAMES: Robert Basehart.

VICE CHAIRMAN BASEHART: Here.

MS. JAMES: Nancy Cardone.

MS. CARDONE: Here.

MS. JAMES: Stanley Misroch.

MR. MISROCH: (No response.)

MS. JAMES: Jonathan Gerber.

MR. GERBER: (No response.)

MS. JAMES: Joseph Jacobs.

MR. JACOBS: (No response.)

CHAIRMAN KONYK: Okay. We have a new member that's joined us today, Mr. Sadoff.

MR. SADOFF: Sadoff.

CHAIRMAN KONYK: Sadoff. Welcome. And we need to swear you in.

(Whereupon, Mr. Sadoff was sworn in as a member of the Board of Adjustment by Ms. Springer.)

CHAIRMAN KONYK: Let the record reflect that Mr. Jacobs has joined us.

Next item on the agenda is proof of publication. I have proof of publication in the Palm Beach Post, and I will accept that into the record.

Next item on the agenda is remarks of the Chairman. For those of you that are not familiar with how the Board conducts our business, the agenda is divided into two parts, the consent and the regular agenda.

Items on the consent agenda are items that are recommended for approval by staff, with or without conditions. The applicant agrees with the conditions, there's no opposition from the public, and no Board member feels the item warrants a full hearing.

If your item remains on the consent, you'll be free to leave after we vote on the consent. If there is opposition from the public

or a Board member feels the item warrants a full hearing, your item will be pulled from the consent agenda and reordered to the regular agenda.

Items on the regular agenda are items that are recommended for denial by staff, the applicant doesn't agree with the conditions or there's opposition from the public or a Board member feels the item warrants a full hearing. The applicant will come forward and the staff will introduce the item. We'll hear from the applicant, we'll hear from staff. At that point we'll hear from any members of the public that wish to speak on the item. And when the public portion of the hearing is closed, the Board members will vote on the item.

The next item on the agenda is the approval of the Minutes. Everybody receive the minutes from the last meeting, does anybody have any corrections or additions?

(No response.)

CHAIRMAN KONYK: Seeing none, can I have a motion for approval?

VICE CHAIRMAN BASEHART: So moved.

MR. PUZZITIELLO: Second.

CHAIRMAN KONYK: Motion by Mr. Basehart, second by Mr. Puzzitiello.

All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Opposed?

(No response.)

CHAIRMAN KONYK: Okay. Motion carries unanimously.

Next item on the agenda is Remarks of the Zoning Director.

MR. MacGILLIS: Just two items. The annual workshop is proceeding this meeting.

And I received a letter from Jonathan Gerber, who is the former At-Large Board member. He's requested I read this into the record, it's dated April 16, 2002.

"I would appreciate if this could be read into the record at the Thursday, April 18th meeting. Due to my appointment as a County Court Judge, I hereby resign as one of the alternates At-Large of the Palm Beach County Zoning Board of Adjustment. I had hoped to be able to appear in person at the Board meeting to notify everyone, but I am in Miami to honor another commitment for my law firm.

Please express my thanks to my colleagues on the Board with whom I have enjoyed serving for the past several years. Their time and effort

towards service on the Board is a credit to their dedication to improve our community.

I am especially grateful to you and your staff for the enthusiasm and tireless efforts you serve Palm Beach County. Your work is a constant that has made the Department a success. Best wishes, Jonathan Gerber."

CHAIRMAN KONYK: Very nice.

MR. MacGILLIS: Staff will be sending the paperwork down. This is an At-Large position so the appointment will be from the Board.

CHAIRMAN KONYK: Okay. Does - is there any changes to the agenda that you're aware of?

MR. MacGILLIS: We have one additional postponed item, which is the SD-106. We have a letter here from the agent which was presented to the Engineering Division yesterday.

We also have the agent here to speak. This is a second request for postponement.

CHAIRMAN KONYK: So we have to vote on that?

MR. MacGILLIS: Yes.

CHAIRMAN KONYK: Okay. So we'll reorder that until the last postponement?

MR. MacGILLIS: Unless you want to -

CHAIRMAN KONYK: Take care of it --

MR. MacGILLIS: -- move it up to take care of it now.

CHAIRMAN KONYK: Well, let's -- is the applicant here for SD-106?

MR. IRAVANI: Good morning. My name is Jeff Iravani, I'm the agent for the applicant. We respectfully request to postpone the item.

The attorney for the applicant had a conflict of his schedule, so we would appreciate if we could have a 30-day postponement.

CHAIRMAN KONYK: Is there anybody here from the public to object to this item?

MR. PERRY: I am.

CHAIRMAN KONYK: Do you have any -- your name for the record?

MR. PERRY: Marty Perry representing two adjacent or nearby landowners, and I have no

objection to the postponement.

CHAIRMAN KONYK: Okay. And there was another gentleman.

MR. GROSS: My name is Robert Gross and I'm a landowner in the area and I have no objection, either.

CHAIRMAN KONYK: All right. Does any Board member have any objection to this postponement?

MR. PUZZITIELLO: Motion to postpone.

CHAIRMAN KONYK: Motion by Mr. Puzzitiello to postpone this item for 30 days.

MR. CUNNINGHAM: Second.

CHAIRMAN KONYK: Second by Mr. Cunningham. Any objection?

(No response.)

CHAIRMAN KONYK: Motion carries unanimously.

MR. IRAVANI: Thank you.

CHAIRMAN KONYK: Next item is BOFA 2002-011, Kim Juran, agent for Trump International Golf Course, to allow an existing ficus hedge to exceed the maximum height. This is an item for postponement.

Jon, is this the first postponement?

MR. MacGILLIS: Second postponement.

CHAIRMAN KONYK: So we have to vote on this one, too?

MR. MacGILLIS: Yes.

CHAIRMAN KONYK: Your name for the record?

MS. JURAN: Hi. Kim Juran for Trump International Golf Course. We're asking for a second postponement. We're having some additional information prepared to support our request.

CHAIRMAN KONYK: Okay. Anybody here to oppose this item?

(No response.)

VICE CHAIRMAN BASEHART: I'll make a motion that we grant you 30 days?

MS. JURAN: Yes, next meeting. I guess it would be 30 days.

VICE CHAIRMAN BASEHART: I'll make a motion that we grant a postponement of item BOFA 2002-011 to the May Board of Adjustment Meeting.

CHAIRMAN KONYK: We have a motion by Mr. Basehart.

MR. JACOBS: Second.

CHAIRMAN KONYK: I don't know who that was. Mr. Jacobs. Second by Mr. Jacobs.

Any opposition?

(No response.)

CHAIRMAN KONYK: All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries
u n a n i m o u s l y .

MS. JURAN: Thank you.

CHAIRMAN KONYK: Next item is BOFA 2002-020, Gentile, Holloway, O'Mahoney & Associates. If you would come forward and state your name for the record.

Jon, is this a postponement first, second, what?

MR. MacGILLIS: This is a first request for postponement.

CHAIRMAN KONYK: And it's by right?

MR. MacGILLIS: Yes.

MS. MARR: Wendy Marr (phon.) with Gentile, Holloway, O'Mahoney, and the request is a 30-day postponement.

CHAIRMAN KONYK: We don't need a motion; right?

MR. MacGILLIS: No.

CHAIRMAN KONYK: So BOFA 2002-020 will receive a 30-day postponement.

MR. MacGILLIS: Just for the record, those three items that are postponed will be heard May 16th, 2002, in this room.

CHAIRMAN KONYK: First item on the consent is BOFA 2002-017. Gee & Jenson, Engineers-Architects-Planners for United Technology. Is the applicant here?

MR. MacGILLIS: No. Unless you want to reorder it. I don't know if he's on his way or -

CHAIRMAN KONYK: Okay. We'll reorder it. He really doesn't have to agree with the conditions anyway.

MR. MacGILLIS: We have a couple of minor changes as well.

CHAIRMAN KONYK: Oh, you have changes? Okay. Then we'll have to reorder it.

CHAIRMAN KONYK: Next item is BOFA 2002-018. Patrick Jerome and Jennifer Ann Smith Carnahan, to allow a proposed addition to encroach in a required setback. Is the applicant present?

MR. CARNAHAN: Yes.

CHAIRMAN KONYK: Come forward for the record and state your name for the record.

MR. CARNAHAN: Pat Carnahan.

MS. SMITH: Jennifer Smith.

CHAIRMAN KONYK: Staff has recommended three conditions. Do you understand and agree with those conditions?

MR. CARNAHAN: Yes.

CHAIRMAN KONYK: Is there anybody here from the public to oppose this?

(No response.)

CHAIRMAN KONYK: Any letters?

MR. MacGILLIS: I'm sorry. There was one letter and one call staff addressed, it was clarifying the variance request.

CHAIRMAN KONYK: Any member of the Board feels this item warrants a full hearing?

(No response.)

CHAIRMAN KONYK: Seeing none, this item will remain on the consent. You can sit down.

Could the people in the audience be quiet?
Thanks.

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 lot is located at 3126 Scanlan Ave. approximately .25 miles South of 10th Avenue and approximately .2 miles East of Congress Ave., within the Englewood Manor Subdivision. The property has an HR8 land use designation and an RM zoning classification. The Englewood Manor Subdivision was platted and recorded in 1953 and supports single family dwellings that were constructed in the 1950's and 1960's. They are typically similar in size and character. The present owners have renovated and added additions to the lot and to the house over the years. The applicant is now requesting from the Board of Adjustment a variance for a proposed approximately 870 sq/ft covered porch to encroach into the required side interior setback by 2.5 feet. The applicant intends to maximize the use of the existing concrete slab in order to construct the proposed addition.

Special circumstances and conditions do exist which are peculiar to this parcel of land. The minimum lot width and depth for

a parcel within the RM zoning district is 65 feet by 75 feet. The subject parcel is 60 feet by 101.50 feet, therefore is a nonconforming lot in terms of width. The applicant would not need the 2.5 foot variance in the side interior setback if the lot was a conforming lot in terms of width pursuant to the ULDC.

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

NO. The applicant is proposing to construct an approximately 870 sq/ft covered porch addition in the west side of the existing single family dwelling. The owners purchased the existing single family in 1998 and since then have a history of obtaining permits for site improvements and would have to obtain a permit for the proposed structure if the variance is 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 the variance will not confer special privileges upon the applicant that were denied to other parcels of land in the same subdivision. Many properties on Scanlan Ave. supports single family residences which have additions in the side setback. In addition, the Board of Adjustment approved several variances for front, side, and rear setbacks within the Englewood Manor subdivision development in 1997 (BA 97-005 & BA 97-072).

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 covered porch to encroach into the required side interior 7.5 foot setback for a 2.5 foot variance. The lot is only 60 feet by 101.55 feet(6090 sq/ft) and the existing

single family dwelling is only 35.6 feet by 25.7 feet (914 sq/ft). The existing dwelling has no dining room and no direct access from inside to the laundry room. The applicant states that the variance is needed to make the area adequate to place a dining table and to provide protection from weather elements when accessing the laundry room.

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

YES. There are limited design options available to the applicant. The applicant is proposing to construct an 18 foot by 28 foot covered open porch addition to the west side of the single family dwelling. The subject dwelling is only (914 sq/ft) and has no dining room. According to the applicant, the covered porch will be needed for a dining area. There are two existing doors to the west side of the single family dwelling. One of them is to access the laundry room. The applicant does not have access to the laundry room via the single family dwelling. Therefore, by granting this variance, the applicant will be able to access the laundry room under a covered roof during bad weather.

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 requested variance side interior setback for the proposed covered porch **will meet** the general intent of the code. As previously stated, the subject parcel is only 60 feet by 101.50 feet, therefore, a nonconforming lot in terms of width. The applicant would not need the 2.5 feet variance in the side interior setback if the lot was a conforming lot in terms of width pursuant to the ULDC. The applicant is proposing 5 foot setback in the west side of the property which is a reasonable request for this particular nonconforming lot. The code requires buildings to be setback from the property

lines to ensure consistency and uniformity of structures within the neighborhood, to provide the minimum separation between uses and adjacent properties, and to minimize adverse visual impact.

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. Granting the variance **will not be injurious** to the surrounding area. The proposed addition in the side setback will have no negative impact on the property to the west. There is an existing 6 foot stockade fence adjacent to the west property line that will mitigate the effects of the encroachment. Also, allowing the 2.5 foot variance in the side of the subject property will not establish a precedent in the Englewood Manor subdivision regarding variances granted by the Board of Adjustment.

ENGINEERING COMMENT

No comments **(ENG)**

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on April 18, 2003 one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By July 18, 2002, the applicant 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)**
3. By September 18, 2002, the applicant shall obtain a building permit for the proposed covered porch addition in order to vest the variance approved pursuant to BA 2002-018. **(DATE: MONITORING-BLDG PERMIT)**

CHAIRMAN KONYK: BOFA time extension 2002-019, Jon Schmidt and Associates, agent for Lorenzo [sic] Lograsso. This is a time extension so it wasn't advertised; correct?

MR. MacGILLIS: Correct. It wasn't advertised, there's no letters on this.

CHAIRMAN KONYK: The conditions don't change. We know he agrees with them.

MR. MacGILLIS: Right, and Alan, for the record, you've spoken with the agent, he's out of town?

MR. SEAMAN: He's out of town.

MR. MacGILLIS: But he's agreed to the conditions.

MR. SEAMAN: He's agreed.

CHAIRMAN KONYK: He's already agreed to them when he got the variance.

MR. MacGILLIS: Right. So staff didn't have a problem with this. He apparently -

CHAIRMAN KONYK: I mean, these aren't new conditions for the time extension?

MR. MacGILLIS: No, they're just an extension to the development order on a specific condition.

CHAIRMAN KONYK: Okay.

MR. MacGILLIS: Staff has no problem that the agent is not here.

CHAIRMAN KONYK: Any Board member have an objection to this?

(No response.)

CHAIRMAN KONYK: Seeing none, Board of Adjustment time extension 2002-019 will remain on consent.

STAFF RECOMMENDATIONS

Staff recommends a maximum of a 6-month time extension from April 19, 2002, for the development order and condition three consistent with Section 5.7.H.2 of the ULDC, to provide additional time for the petitioner to commence development and implement the approved variances.

The property owner shall comply with all conditions of approval of BOFA 2001-0213, unless modified herein.

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 December 19, 2001, the applicant shall apply for a building permit to renovate the existing 3,500 sq/ft building. **(DATE: MONITORING-BLDG PERMIT-BA)**
3. By March 19, 2002, the applicant shall obtain the building permit for the renovations to the existing 3,500 sq/ft building. **(DATE: MONITORING-BLDG PERMIT-BA)**

Is hereby amended to read:

By September 19, 2002, the applicant shall obtain the building permit for the renovations to the existing 3,500 sq/ft building. **(DATE: MONITORING-BLDG PERMIT-BA)**

4. The final site layout of this laundry facility shall be consistent with the BA Site Plan, Exhibit 23, and all BA conditions. Any modifications to the site layout shall be reviewed with the Zoning BA Section prior to the changes being submitted for a building permit. **(ONGOING)**
5. The landscaping along the south property line shall be upgraded as follows:
 - a) Native 14-foot tall shade trees planted 20 feet on center.
 - b) Native 36" hedge planted 24" on center.

The Landscape Plan Submitted with the permit application for the renovation to the 3,500 sq/ft building shall reflect this condition. **(BLDG PERMIT: LANDSCAPE-BA)**
6. The variances associated with BA 2001-023,

are valid for this specific laundry use or any other similar use that the Zoning Director concludes generates the same parking demands. And changes to the Occupational License shall be presented by the property owner to the Zoning Division staff for review and approval prior to change to Occupational License. **(ONGOING-BA)**

7. The final site design and architectural facades of the renovated 3,500 sq/ft building shall be consistent with the lake Worth Corridor Overlay District standards. **(ONGOING)**

The Development Order for BA 2001-023 shall lapse on April 19, 2002, one year from the approval date.

Is hereby amended to read:

The Development Order for BA 2001-023 shall be extended from April 19, 2002 to October 21, 2002; an extension of six-months from the approval date. **(DATE: MONITORING-ZONING-BA)**

CHAIRMAN KONYK: BOFA 2002-021, Shawn P. and Hope Seaman, owners, to allow a proposed garage addition to encroach.

VICE CHAIRMAN BASEHART: Ask them if they're related to Alan.

CHAIRMAN KONYK: You're not related to Alan, are you?

MR. SEAMAN: No.

CHAIRMAN KONYK: BOFA 2002-021 has four conditions. Do you understand and agree with those conditions?

MR. SEAMAN: Yes.

MRS. SEAMAN: Yes.

CHAIRMAN KONYK: Is there anybody here from the public to speak on this item?

(No response.)

CHAIRMAN KONYK: Any letters?

MR. MacGILLIS: No letters.

CHAIRMAN KONYK: Any Board member feels this item warrants a full hearing?

(No response.)

CHAIRMAN KONYK: Seeing none, this item will remain on consent.

MS. SPRINGER: Just state your names into the record.

MR. SEAMAN: Shawn Seaman.

MRS. SEAMAN: Hope Seaman.

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. Special circumstances do exist that are peculiar to the subject lot that are not applicable to other parcels in the same district. As previously mentioned, the minimum acreage requirement for the AR zoning district is ten (10) acres. The subject lot, .23 acres, was created within the Tropical Country Estates subdivision prior to 1973, and therefore, is a legal lot of record. The overall subdivision is an antiquated subdivision and the subject lot is 106 feet in width. The existing house is setback at the west side at approximately 26 feet. The required side setback is 15.9 feet. There is a 6 foot utility easement located in the rear yard that limits options for alternative locations to construct the structure in the rear yard. The intent of the AR

setbacks is to maintain adequate separation between adequate land uses and structures. Since this lot is a .23 acre legal nonconforming lot with a width less than the 300 foot in the AR district, the setback has been reduced to 15.9 feet instead of the required 50' feet in the side and to 18.9 feet instead of the required 100 feet in the rear. However, the applicant states that the variance is required in order to allow a proposed addition to be constructed into the required west side interior and rear setback.

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

NO. The subject site has an AR (Agricultural Residential) zoning designation. In the AR zoning district, the minimum lot width is 300 feet and the minimum lot depth is 300 feet. However, the subject parcel has a lot width of 106 feet and a lot depth of 94.6 feet. Since these dimensions do not comply with the minimum lot width and depth requirements for the AR zoning district, the Unified Land Development Code contains a provision which allows for a reduction in the required setbacks. Applying the percentages to the nonconforming width and depth results in a side interior setback of 15.90 feet, and a rear setback of 18.90 feet. The dimensions of the subject site (lot width and depth) are very typical to a parcel with an RS (residential single family) zoning designation.

Therefore, approval of the requested variance would not compromise the intent if the Code concerning setback requirements since the applicant is proposing a 10.5 foot side setback and 17 foot rear setback. Furthermore, there are no practical design alternatives available to the applicant.

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. As previously mentioned above, the size of the property is more compatible with the RS (Residential Single Family) zoning district requirements than the AR (Agricultural Residential) zoning district requirements. Also, the land use designation of the subdivision in which the lot is located is MR-5 (Medium Residential 5) which is consistent with an RS zoning designation and not an AR designation. The ULDC requires a 7.5 foot side setback from the side property line and a 15 foot rear setback to assure sufficient separation between the structures. The other lots within the subdivision are also comparable to the RS zoning district in terms of size and dimensions. Therefore, considering the proposed setback is typical for a lot with the dimensions of the subject lot, granting the variance **will not** confer special privileges upon 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. According to the applicant justification and site plan, the existing 12.35' X 26.2' garage will be converted to a bathroom and a family room for the daily activities of the family members. The garage addition will be needed for sheltering the applicant's truck and recreational equipment. The minimum side interior setback for the nonconforming lot within the AR zoning district is 15.9 feet and the minimum setback for the rear setback is 18.9 feet. However, similar sized properties would typically have an RS zoning designation that allows a minimum side interior setback of 7.5 feet. The applicant would not need a variance if this lot had an RS zoning designation. The applicant's request to construct a 472.5 square foot addition to this 1,518 square foot house, is not an unreasonable request.

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 dimensions of the subject site (lot width and depth) are very typical to a parcel with an RS (residential single family) zoning designation. The applicant is proposing to construct a 14' X 33.75' garage addition on the west side of the existing single family dwelling. The approval of this variance is the minimum variance that would allow a reasonable use of the parcel. Allowing the proposed garage addition to encroach the side setback by 5.40 feet on the west side and 1.9 feet in the rear would be the minimum necessary to permit the proposed garage addition. Staff is recommending conditions of approval that the applicant shall replace the existing fence along the rear property line to mitigate the setback encroachment.

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

YES. As stated previously, the intent of the AR setback is to maintain adequate land area between structures and property lines, and enhance property values. The proposed garage addition will enhance the quality of living for the property owner. The existing 6 foot wood fence combined with the proposed 10.5 foot setback in the west side of the property and the proposed 17 foot setback in the rear will ensure the lot owner to the east is not impacted by the variance, if approved. If the requested variance is granted, with conditions recommended by staff, the variance will be consistent with the code.

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 grant of the variance **will not be injurious** to the area involved or otherwise detrimental to the public

welfare. The AR zoning district requires that lots be a minimum of 10 acres in area. However, the subject lot is 10,000 square feet in area which is very characteristic of an RS zoned parcel, which is consistent with the MR-5 land use designation. Considering that the size of the subject parcel is characteristic of a lot within the RS zoning designation in terms of size and dimensions, and taking into account the MR-5 land use designation is consistent with the RS zoning district and not the AR zoning district, the grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In addition, the Board of Adjustment has approved variances for side and rear setback reductions on other lots within Tropical Country Estates.

ENGINEERING COMMENT

No comments **(ENG)**

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on April 18, 2003 one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By July 18, 2002, the applicant 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)**
3. By October 18, 2002, the applicant shall obtain a building permit for the proposed covered garage addition in order to vest the variance approved pursuant to BA 2002-021. **(DATE: MONITORING-BLDG PERMIT)**
4. By March 18, 2003, or prior to the issuance of the final Certificate of Completion of the garage addition, the

applicant shall replace the existing fence along the rear property line to mitigate the garage addition encroachment. **(DATE: MONITORING- BLDG-CO)**

CHAIRMAN KONYK: BOFA 2002-022, Anna Cottrell and Associates, agent for Enrico and Stella Rosai and J.W. and Jeannette Cheatham, to allow a proposed landscape buffer.

MS. COTTRELL: Good morning. I'm Anna Cottrell, I'm the agent for this petition, and the conditions are all acceptable.

CHAIRMAN KONYK: Okay. Do we have any members of the public here to speak on this item? (No response.)

CHAIRMAN KONYK: Any letters?

MR. MacGILLIS: There was two. One that staff addressed the concern. There was a Steve McCoy that apparently staff couldn't address his concerns, but he's not here. So Damon, that was your -- okay.

CHAIRMAN KONYK: Any member of the Board feels this item warrants a full hearing? (No response.)

CHAIRMAN KONYK: Seeing none, this item will remain on the 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. This property **has unique circumstances** that need to be considered when applying the literal intent of the landscape buffer provisions of the ULDC.

The applicant is proposing to develop the vacant 1.37-acre site with a 13,200 square foot medical office building pursuant to a DRC approved Site Plan. The applicant is encumbered with several easements that limit building placement and use of the parcel. A 20-foot LWDD easement runs along the north property line and 12-foot FPL easement is immediately adjacent to the LWDD easement. The site is also encumbered with a 30-foot by 72 foot FPL easement along the west property line. Due to the existing easements, proposed building location, and parking requirements, the applicant is requesting variances to allow development to occur. The applicant is requesting a reduction of 12.5 feet in the right-of-way landscape buffer along a portion of the south property line adjacent to Via Delray Road. The applicant is also requesting 15 feet encroachment into the easements along the north property line, for a variance of 10 feet. The applicant is also proposing a 7.5-foot encroachment into the easement along the west property line, for a variance of 2.5 feet. The applicant has examined several alternate site designs and the proposed variances are the minimum necessary to accommodate the proposed development. Staff is recommending landscape conditions of approval to upgrade the plant material in the R-O-W buffer along the south property line to insure that, if the variance is granted, the intent of the landscape code will be satisfied.

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

NO. The special circumstances are due to the narrow configuration of the property and the impact of existing easements on site development. The applicant has explored several design options for this legal conforming lot, and has developed a site plan that minimizes the requested variances. The applicant has received permission from the LWDD and FPL to install landscaping in the respective easements.

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 that would be denied similar sites. The applicant is proposing to construct medical offices on a legal conforming lot. The Commercial future land use and the Specialized Commercial Zoning designation, which currently corresponds to Limited Office Commercial (CLO), permit the medical office use with DRC site plan approval. The proposed site improvement will comply with all other code requirements in terms of setbacks, lot coverage, required parking, and landscaping. The proposed development is consistent with surrounding nonresidential uses in the area.

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 establishes minimum code requirements for the development of each site. The site has existing limitations that result in the need for variances. The applicant is encumbered with several easements that limit building placement and use of the parcel. A 20-foot LWDD easement runs along the north property line and a 12-foot FPL easement is immediately adjacent to the LWDD easement. The site is also encumbered with a 30 foot by 72 foot FPL easement along the west property line. Literal interpretation of the ULDC will reduce the available development area approximately 30 percent. The applicant would be unable to develop the site as proposed.

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

STRUCTURE:

YES. Granting the requested variances is the **minimum variance** that will make possible the reasonable use of the parcel of land. The applicant has explored several design options in order to minimize the requested variances. The variances requested are intended only to allow reasonable use of the property and appropriate level of development for the site. Staff is recommending landscape conditions of approval to upgrade the plant material in the R-O-W buffer along the south property line to insure that, if the variance is granted, the intent of the landscape code will be satisfied.

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

YES. The granting of the requested variances **will be consistent** with the Comprehensive Plan and ULDC provisions. The applicant is proposing to construct medical offices on a legal conforming lot. The Commercial future land use and the Specialized Commercial Zoning designation, which currently corresponds to Limited Office Commercial (CLO), permit the medical office use with DRC site plan approval. The proposed site improvement will comply with all other code requirements in terms of setbacks, lot coverage, required parking, and landscaping. The proposed development is consistent with surrounding nonresidential uses in the area. Staff is recommending landscape conditions of approval to upgrade the plant material in the R-O-W buffer along the south property line to insure that, if the variance is granted, the intent of the landscape code will be satisfied.

- 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. Granting the variance **will not be injurious** to the surrounding area. The requested variances are the minimum necessary to allow development on the site. The proposed site improvement will comply with all other code requirements in terms of setbacks, lot coverage, required parking, and landscaping. The requested landscape variances will allow landscaping to encroach existing easements, and will not adversely affect surrounding residential and nonresidential uses. The proposed landscaping will provide a maintained buffer between site development and existing residential.

ENGINEERING COMMENT

Note that although Via Delray is a "Non-Plan Collector Street", requiring a minimum street width of only 80 ft. per Chart 8.22-2, the existing 106 ft. width was required to meet the minimum width for a median-divided roadway per County standards existing at the time of construction.

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on April 18, 2003 one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. The final site layout of the medical office shall be consistent with the BA Site plan, Exhibit 9, and all BA conditions of approval. **(ONGOING)**
3. Upon final DRC Site Plan approval, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the final approved DRC Site Plan. **(BLDG PERMIT:BLDG)**
4. Prior to the issuance of the Final Certificate of Occupancy for the 13,200 square foot medical office building, the applicant shall install 12 feet high trees

at 20 feet on center along the south R-O-W buffer segment that is the subject of this variance request. (**BLDG PERMIT: LANDSCAPE-BA**)

CHAIRMAN KONYK: BOFA 2002-023, Donald Stiller, agent for Estates of Boynton Waters, to allow an existing single family residence to encroach into the required street setback, side setback.

Your name for the record?

MR. STILLER: Donald Stiller.

CHAIRMAN KONYK: Staff has recommended two conditions. Do you understand and agree with those conditions?

MR. STILLER: Yes, I do.

CHAIRMAN KONYK: Any member of the public here to speak on this item?

(No response.)

CHAIRMAN KONYK: Any letters?

MR. MacGILLIS: No letters.

CHAIRMAN KONYK: Any Board member feel this item warrants a full hearing?

VICE CHAIRMAN BASEHART: Well, Madam Chair, the only thing I want to say is I have a business relationship with Mr. Stiller, not on this project.

Do I need to abstain from voting on this item or not?

CHAIRMAN KONYK: Yeah, we'll pull this one and vote separate, I would say.

VICE CHAIRMAN BASEHART: All right.

CHAIRMAN KONYK: All right. Seeing no objection from the Board members, this item will remain on the 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. As indicated by the applicant's justification statement, the variance is necessary because of surveyor error. The existing single family dwelling was issued a building permit (B00014496) by Building staff. The cause of the error was based on an incorrect survey submitted to the Building Department showing compliance with the required setback. The encroachment was discovered into the required street side setback when the final as-built survey was completed for Certificate of Occupancy on October 2001. Therefore, the applicant is applying for a street side setback to allow the existing 3,594 sq/ft single family dwelling to remain in its present location.

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

NO. The property is a corner lot with an irregular shape, resulting in a reduction of the lot when moving from east to west. The 1.89' encroachment was not discovered until the owner changed surveyors. It appears that the error occurred because the previous surveyor didn't take consideration of the shape of the property along the south side. In order to resolve the situation, the applicant met with staff in December 17, 2001 to discuss other design options. Staff can support the request since it's an existing building and the encroachment is minor and will not be visually detectable. The granting of the variance will insure the applicant can obtain a final Certificate of Completion for the single family

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. According to the applicant justification, the error was unknown to the owner and to the Building staff until the as-built survey was completed by another surveyor. This particular lot is a corner lot abutting streets on two sides and the proposed encroachment is internal to the PUD. The single family dwelling is separated from the nearest lot to the south by a 10 foot utility easement and 50 foot right-of-way. The variance request is only for 20' along the south side of the 48' building. Therefore, granting the variance **shall not** confer special privilege upon 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. The variance request **is the minimum** variance in order to allow the property owner to correct the violation. A literal interpretation of the Code would require the property owner to demolish a portion of the existing structure and reconstruct it to comply with the code requirements. Denial of the variance will force the owner to make modifications in order to reduce the gross square footage of the existing single family dwelling and would work an unnecessary and undue hardship.

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 variance **is the minimum** variance that will allow a reasonable use of the parcel. The existing building is 3,594 sq/ft and the

encroachment occurs along the south property line for approximately 20 feet of the building length into the side street setback. There will be no encroachment along the front, rear, and side interior setback. This is the minimum variance necessary to correct the existing setback violation and to allow the existing single family dwelling to remain in its current location.

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 ULDC and Comprehensive Plan. The ULDC establishes setbacks to provide consistency of setback along street. The existing single family dwelling is encroaching 1.89' into the required street side setback. The 1.89' variance will not adversely affect the character of surrounding area. There is a 10 foot utility easement and 50 foot right-of-way between the subject lot and the nearest lot to the south to mitigate this minor encroachment.

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. Granting of this variance **will not be injurious** to the surrounding area. If the variance is granted, this unit will be consistent in architecture and layout to other units in the surrounding area. Approval of the variance will not be visually detectable or detrimental to the surrounding neighborhood.

ENGINEERING COMMENT

No comments (ENG)

ZONING CONDITIONS

1. By May 31, 2002, the applicant 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 to be filed with the Building permit application currently on file.
(BLDG PERMIT: BLDG)

2. By October 18, 2002, the applicant shall obtain the Final Certificate of Completion in order to vest the variance approved pursuant to BA 2002-023. **(DATE:MONITORING-BLDG PERMIT)**

CHAIRMAN KONYK: BOFA 2002-024, Beril Kruger Planning and Zoning Consultants, agent for Sean Monahan, to allow a proposed solid roof screen enclosure to encroach into the required rear setback.

Your name for the record?

MR. KRUGER: Good morning, my name is Beril Kruger, representing the Petitioner.

CHAIRMAN KONYK: The staff has recommended five conditions.

MR. KRUGER: We accept them.

CHAIRMAN KONYK: Okay. Any letters on this one, Jon?

MR. MacGILLIS: Yes. We had three, one that was objecting to it, a James Rice, "We do not believe the existing zoning laws should be changed. One thing leads to another and soon anything goes." 7634 Colony Palm Drive.

CHAIRMAN KONYK: Is there any member of the public here to speak on this item?

(No response.)

CHAIRMAN KONYK: Any Board member feel this item warrants a full hearing?

(No response.)

CHAIRMAN KONYK: And Jon, you don't feel that that objection is specific enough?

MR. MacGILLIS: I think it's just a general comment.

CHAIRMAN KONYK: Okay. Seeing none, this item will remain on the consent.

MR. KRUGER: 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 conforming SFD is located in the Colony PUD. The property owner is proposing a solid roof screen enclosure. The rear property line borders 45 feet of landscape buffers. The proposed 2.4-foot rear setback for a solid roof screen enclosure will allow the property owner to maximize use of the rear yard. The property owner would like to maximize the use of the solid roof screen enclosure as a covered recreation area to reduce potential health complications for the owner's nine-year old daughter.

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

NO. The conforming SFD was purchased by the existing property owner in its existing configuration. The property owner's nine-year old daughter is inflicted with Eczema, a chronic skin condition that is adversely affected by direct sunlight. Approving the rear setback variance for a solid roof screen enclosure will provide a shaded recreation area for the property owner's daughter. The requested variance will have a minimal impact on the surrounding property owners. There are no SFD's to the rear of the property, and the requested variance will not affect the required side interior

setbacks that maintain separation between SFD's.

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 to the applicant that would be denied by the ULDC. The proposed solid roof screen enclosure would be permitted with the proper building permits. The PUD development guidelines would allow the property owner to construct a screen roof screen enclosure with a 2 foot setback. However, the owner's daughter is afflicted with Eczema, a chronic skin condition that is adversely affected by direct sunlight. Approving the rear setback variance for a solid roof screen enclosure will provide a shaded recreation area for the property owner's daughter.

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 proposed solid roof screen enclosure would be permitted with the proper building permits and is a typical amenity of an SFD. The PUD development guidelines would allow the property owner to construct a screen roof screen enclosure with a 2 foot setback. However, the owner's daughter is afflicted with Eczema, a chronic skin condition that is adversely affected by direct sunlight. Approving the rear setback variance for a solid roof screen enclosure will provide a shaded recreation area for the property owner's daughter.

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 PUD development guidelines would allow the property owner to construct a screen roof screen enclosure with a 2-foot setback. The proposed 2.4-foot rear setback for a solid roof screen enclosure will allow the property owner to maximize the use of the solid roof screen enclosure as a covered recreation area to reduce potential health complications for the owner's nine-year old daughter.

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 ULDC requirement for rear setbacks is to maintain separation between residences, protect adjacent property owners, and maintain property values. The proposed setback of 2.4 feet **will be consistent** with these provisions. The proposed solid roof screen enclosure will conform with ULDC required side interior setbacks, which will protect adjacent property owners. The rear property line borders 45 feet of landscape buffers, and will not change the character of the development.

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. Granting this variance **will not be injurious** to the surrounding area. The proposed solid roof screen enclosure is a permitted use in the Colony PUD. The side interior setbacks will conform with current ULDC requirements. The rear property line borders 45 feet of landscape buffers. The 7.6-foot variance will not encroach on the use or value of the surrounding homes.

ENGINEERING COMMENT

No comments (ENG)

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on April 18, 2003, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. By July 18, 2002, 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)**
3. By October 18, 2002, the applicant shall obtain a building permit for the solid roof screen enclosure in order to vest the rear setback variance approved pursuant to BA 2002-024. **(DATE: MONITORING-BLDG PERMIT)**
4. The solid roof screen enclosure shall be limited to a single story flat roof. **(BLDG PERMIT: BLDG)**
5. The solid roof screen enclosure shall not be enclosed with solid walls or windows at a future date. **(ONGOING)**

CHAIRMAN KONYK: Okay. Why don't we vote on BOFA 2002-023 first? Somebody make a motion to approve that?

MR. PUZZITIELLO: Motion to approve, with the staff comments.

CHAIRMAN KONYK: Motion by Mr. Puzzitiello.

MR. CUNNINGHAM: Second.

CHAIRMAN KONYK: Second by Mr. Cunningham, with Mr. Basehart abstaining.

VICE CHAIRMAN BASEHART: Yes.

CHAIRMAN KONYK: Any objection?

(No response.)

CHAIRMAN KONYK: Okay. All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries with Mr. Basehart abstaining.

VICE CHAIRMAN BASEHART: Jon, will you fax me the form?

MR. MacGILLIS: Yes.

VICE CHAIRMAN BASEHART: I see Ms. Hall who represents the first item that has walked in.

CHAIRMAN KONYK: Okay. Next item on the consent is BOFA 2002-017, Gee & Jenson. Is that the one?

VICE CHAIRMAN BASEHART: Yes.

CHAIRMAN KONYK: Engineers-Architects-Planners for United Technologies. And your name for the record?

MS. HALL: Yes. Barbara Hall with Greenberg, Traurig, representing United Technologies.

CHAIRMAN KONYK: Okay. The staff has recommended --

MR. MacGILLIS: I'm sorry, just for the record, do we have authorization for you to represent this petition? Are you part of -- because we had this down for actually --

MS. HALL: Gee & Jenson.

MR. MacGILLIS: Right.

MS. HALL: I'm their attorney and have been through the entire process on all the --

CHAIRMAN KONYK: She's been here before on this item.

MR. MacGILLIS: We need -- unless we have it in the record though, we need it specifically that she can agree to the conditions on this.

MS. HALL: There are no conditions. I believe the conditions were removed, am I correct?

MR. SEAMAN: Well, there are two conditions that are being deleted, but I think you have to agree to the --

CHAIRMAN KONYK: Why? I mean, you're taking something --

VICE CHAIRMAN BASEHART: Come on, Alan.

MR. MacGILLIS: I think what we can do is

--

MR. PUZZITIELLO: Can we do it conditionally?

MR. MacGILLIS: -- if the County Attorney doesn't have a problem we can have her fill out the form, just so we have it on file.

MS. HALL: That's fine.

MR. MacGILLIS: I don't want to have problems with this petition down the road.

MS. HALL: Sure.

CHAIRMAN KONYK: That'll be fine.

VICE CHAIRMAN BASEHART: She has to agree not to have any conditions, is that what you're saying?

CHAIRMAN KONYK: Because it's so unusual?

MR. SEAMAN: Well, you know, perfunctory government. So we should turn to that page in your staff report.

CHAIRMAN KONYK: Okay.

MR. SEAMAN: And it is on page 8, and at the top of the page where it says approval with conditions, it should say approval without conditions, all right?

CHAIRMAN KONYK: Oh, I wouldn't agree to that.

VICE CHAIRMAN BASEHART: Can you handle that?

MR. SEAMAN: And then on page 10 -

MR. PUZZITIELLO: Do you have that authority?

MS. HALL: I think so.

MR. SEAMAN: Where it says conditions one and two, you can delete those.

And the reason for that is that there is no construction that's going to take place, there is no renovation that's going to take place. The reason for the variance is simply to let the buildings come into compliance with the ULDC as an MUPD and the rezoning that's taking place in the future.

CHAIRMAN KONYK: I wouldn't be surprised if we already have something on file saying that she's an authorized agent, because she's been here before on this issue, on issues for the same thing.

MR. MacGILLIS: They have to be within the last six months, just we don't want to come back with problems.

CHAIRMAN KONYK: Okay. Well, you'll take

care of that; right?

MS. HALL: I will.

CHAIRMAN KONYK: You agree to make that a condition, that you'll take care of that?

MS. HALL: I agree to make it a condition, right, that I sign a form to agree to no conditions.

MR. MacGILLIS: Staff will provide you that before you leave.

MS. HALL: That's correct. Thank you.

CHAIRMAN KONYK: All right. I'm just going to read over again which items we're voting on. It's BOFA 2002 -- oh, any Board member feel this item warrants a full hearing?

(No response.)

CHAIRMAN KONYK: Anybody here from the public to speak on this item?

(No response.)

CHAIRMAN KONYK: Any letters, Jon? Are there any letters on this item?

MR. MacGILLIS: Which item?

CHAIRMAN KONYK: The Gee & Jenson -- this one.

MR. MacGILLIS: No, there were not.

CHAIRMAN KONYK: So seeing none, this item will remain on the 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. This 93.37-acre site, known as a portion of the Pratt & Whitney Business Park in north Palm Beach County, has unique conditions that warrant special consideration when applying the literal intent of the MUPD provisions. The Business Park was begun in the 1950's

prior to the adoption of the current Unified Land Development Code. The applicant currently has an application for a zoning amendment to redone the property from IG (Industrial General) to several Multiple Use Planned Developments (MUPD's). The rezoning of the land from IG to MUPD will utilize the existing sites and buildings constructed some 20 to 50 years ago. These sites and the existing buildings will not meet several of the current MUPD and ULDC code criteria for setbacks. It is, therefore, necessary to address the noncompliance issues by considering the minimum variances necessary to bring the project into compliance with the code. Therefore, the granting of the three requested variances from the regulations for an MUPD and ULDC is reasonable and related to the special conditions of the land and proposed use of the property.

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

NO. The applicant has historically obtained all the necessary approvals and permits for the Business Park as it developed through the years, beginning in the early 1950's. Current employment, however, at the facilities has declined from a high of 9,900 to the current 2,460. Some of the buildings are no longer needed to support the present operations. United Technologies desires to sell these surplus buildings for compatible office and industrial uses together with compatible supporting, accessory and ancillary uses, facilitating the continuation and further development of this manufacturing and research and development area. To that end, the applicant has initiated an application of a zoning amendment to rezone the property from IG (Industrial General) to several Multiple Use Planned Developments (MUPD's). In doing so, several of the MUPD and ULDC design standards will not be met and will require variance relief.

The three proposed variances, therefore,

are not self-created and warrant special consideration when applying the literal intent of the code. The special circumstances have been created through the action of the County adopting the ULDC and the subsequent revisions.

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 three requested variances **will not confer** any special privileges on the applicant. The applicant has demonstrated that the project is unique and warrants special consideration when applying the literal interpretation of the code provisions. The only physical change for the parcels affected by the proposed MUPD's will be a different entrance than the customary one used for the main Business Park. The new entrance will allow access to a similar mix of uses/tenants and users as the main facility, but that will need less access security. Recommending approval of the variances, therefore, is based on the fact that all other aspects of the previous sites remains the same. The existing approved square footage, the site layouts, similar tenant-types all remain unchanged in the new MUPD's.

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 literal intent of the MUPD and ULDC provisions **will place a hardship** on the applicant, if applied literally. The applicant has historically obtained all the necessary approvals and permits for the Business Park as it developed through the years, beginning in the early 1950's. Current employment, however, at the facilities has declined from a high of 9,900 to the current 2,460. The only

physical change for the parcels affected by the proposed MUPD's will be a different entrance than the traditional one used for the main Business Park. The new entrance will allow access to a similar mix of uses/tenants and users as the main facility, but that will need less access security.

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 three variances will allow the project to move forward. The Business Park was begun in the 1950's prior to the adoption of the current Unified Land Development Code. The applicant currently has an application for a zoning amendment to redone the property from IG (Industrial General) to several Multiple Use Planned Developments (MUPD's). The rezoning of the land from IG to MUPD will utilize the existing sites and buildings constructed some 20 to 50 years ago. These sites and the existing buildings will not meet several of the current MUPD and ULDC code criteria for setbacks. It is, therefore, necessary to address the noncompliance issues by considering the minimum variances necessary to bring the project into compliance. The only physical change for the parcels affected by the proposed MUPD's will be a different entrance than the customary one used for the main Business Park. The new entrance will allow access to a similar mix of uses/tenants and users as the main facility, but that will need less access security. The minimum variances have been requested to allow a reasonable use of the existing land configurations, buildings and parking lot geometrics. Anything less would require a portion of the existing buildings to be torn down or left unused and require the applicant to completely redesign a permitted and constructed retention pond that has been operational for almost 20 years. The three variances requested, therefore, **are justified and warranted** when the alternative of

considerable demolition is considered.

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

YES. The overall project has, in general, all the required approvals to comply with the intent of the Comp Plan EDC designation, The United Technologies Corporation (Pratt-Whitney) Protection Area Overlay District, and ULDC code provisions. It is the intent of the code to allow developments to move forward that are in compliance with the general provisions of the Comp Plan and ULDC. The applicant can satisfy all code requirement, if the variances are approved. It is the intent of the ULDC to provide adequate separation between buildings and property lines to provide open spaces and separation to meet the needs of the tenants and users of the site. It is also the intent of the MUPD to encourage projects that foster unity between various uses. In this situation, the variances will ensure reasonable resolution to the design conflicts related to the current facilities and newly created lot lines as the site changes over from IG to MUPD zoning status.

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 variances will ensure a reasonable resolution of the design conflicts related to the current facilities. The Pratt & Whitney Business Park in northern Palm Beach County was begun in the 1950's prior to the adoption of the current Unified Land Development Code. The new MUPD's will utilize the **existing sites and buildings constructed some 20 to 50 years ago.** The only physical change for the parcels affected by the proposed MUPD's will be a different entrance than the customary one used for the main Business

Park. The granting, therefore, of the three requested variances from the regulations for an MUPD would not be detrimental to the public welfare.

ENGINEERING COMMENT

No comments (ENG)

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on April 18, 2003, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application, prior to the original Development Order expiring. **(DATE: MONITORING-ZONING)**
2. 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 building renovation permit application. **(BLDG PERMIT: BLDG)**

CHAIRMAN KONYK: The items on the consent are BOFA 2002-017; BOFA 2002-018; Board of Adjustment time extension 2002-019; BOFA 2002-021; BOFA 2002-022; and BOFA 2002-024. Someone prepared to make a motion for --

VICE CHAIRMAN BASEHART: I'll make a motion that the items that you just read off be approved on consent, with the staff report for each item becoming the record of the hearing.

MS. CARDONE: Second.

CHAIRMAN KONYK: Okay. We have a motion by Mr. Basehart, a second by Ms Cardone.

Any discussion?

(No response.)

CHAIRMAN KONYK: Any member opposed?

(No response.)

CHAIRMAN KONYK: All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries unanimously. You're free to leave.

MS. CARDONE: Twenty-three minutes.

CHAIRMAN KONYK: It's not a record.

VICE CHAIRMAN BASEHART: Jon, do I need to do the form, the conflict of interest form because I abstained?

MR. MacGILLIS: Yes.

VICE CHAIRMAN BASEHART: Can you get me one?

I mean you have to fill out a form.

CHAIRMAN KONYK: For abstaining, too?

VICE CHAIRMAN BASEHART: Yes.

CHAIRMAN KONYK: Okay. I thought you had just one form to fill out.

The next item on the agenda is the attendance record for the March Meeting, Mr. Jacobs was on vacation, and Mr. Puzzitiello was away on business, Mr. Sadoff was ill, and Mr. Gerber was not required.

So do we have any objections to these being excused absences?

(No response.)

CHAIRMAN KONYK: Seeing none, would somebody make a motion to approve these as excused?

MR. SADOFF: I make a motion. I want to make a motion.

MS. CARDONE: So moved.

CHAIRMAN KONYK: But you can't make this motion because we're making it about you.

MR. SADOFF: Because I wasn't here, you're right. I appreciate that.

CHAIRMAN KONYK: You can make the motion to adjourn.

VICE CHAIRMAN BASEHART: Nancy made the motion. Nancy made the motion.

CHAIRMAN KONYK: She's on it -- no, she's not on it.

MS. CARDONE: I was here.

CHAIRMAN KONYK: Yes, you were. Ms. Cardone has made the motion to approve.

MR. CUNNINGHAM: Second.

CHAIRMAN KONYK: Second by Mr. Cunningham. Any objections?

(No response.)

CHAIRMAN KONYK: All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries unanimously.

Okay. Now we'll have a motion to adjourn.
MR. SADOFF: I make such a motion.
CHAIRMAN KONYK: Mr. Sadoff has made the
 motion.
MR. PUZZITIELLO: Second.
CHAIRMAN KONYK: Second by Mr. Puzzitiello.
 All those in favor?
BOARD: Aye.
CHAIRMAN KONYK: Adjourned.

(Whereupon, the meeting was adjourned at
 9:25 a.m.)

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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 37,
 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 May, 2002.

Sophie M. Springer, Notary
Public.