

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, August 15, 2002
9:00 a.m - 9:12 a.m.
100 South Australian Avenue
West Palm Beach, Florida

Reporting:
Rhonda L. Buxbaum
Notary Public

ATTENDEES

Chelle Konyk, Chairman
Robert E. Basehart, Vice Chairman
Mr. Bart Cunningham
Ms. Nancy Cardone
Mr. William Sadoff
Mr. Raymond Puzzitiello

David Cuffe, Engineer
Amy Petrick, Asst. County Attorney
Alan Seaman, Senior Planner, Zoning
Miradieu Aubourg, Planner 1, Zoning
Damon Kolb, Planner II, Zoning
Juanita James, Zoning Technician
Annette Stabilito, secretary

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P R O C E E D I N G S

CHAIRMAN KONYK: I'd like to call to order the August 15th, 2002, Board of Adjustment Meeting.

Let's start with the roll call and declaration of quorum.

MS. JAMES: Mr. William Sadoff.

MR. SADOFF: Here.

MS. JAMES: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. JAMES: Mr. Bart Cunningham. Ms. Chelle Konyk.

CHAIRMAN KONYK: Here.

MS. JAMES: Mr. Robert Basehart.

VICE CHAIRMAN BASEHART: Here.

MS. JAMES: Ms. Nancy Cardone. Mr. Joseph Jacobs. Mr.

Stanley Misroch.

CHAIRMAN KONYK: We have a quorum.

MS. JAMES: Yes.

CHAIRMAN KONYK: I'd like to have the record note that I have before me Proof of Publication in the Palm Beach Post on July 28, 2002.

Next item on the agenda is the remarks of the Chair. For those of you who are not familiar with how the Board conducts its business, the hearing is divided into two parts: A consent and a regular agenda.

Items on the consent agenda are items that are recommended for approval by Staff, either with or without conditions.

Let the record reflect that Mr. Cunningham has arrived.

(Thereupon, Mr. Cunningham entered the room)

CHAIRMAN KONYK: The applicant agrees with those conditions. There's no member of the public to speak against the item, and no board member feels the item warrants a full hearing.

If your item is on the consent agenda, you'll be free to leave after we vote on that.

If there is a member of the public that feels the item warrants a full hearing, or a member of the board, or if we have letters, or the applicant doesn't agree with the conditions, your item will be pulled from the consent and re-ordered to the regular agenda.

Items on the regular agenda are items that have been either recommended for denial by staff; the applicant doesn't agree with the conditions; there is opposition from the public; or if a board member feels the item warrants a full hearing.

The item will be introduced by the Staff. The applicant will have an opportunity to give their presentation. We'll hear from the public, if that's appropriate. After the public portion of the hearing is closed, the members of the board will vote on the item.

The next item on the agenda is approval of the minutes. Everyone received a copy of the minutes of the July meeting.

Does anybody have any corrections or additions?

Seeing none, do I have a motion to approve?

MR. SADOFF: So moved.

VICE CHAIRMAN BASEHART: Second.

CHAIRMAN KONYK: Motion by Mr. Sadoff. Second by Mr.

Basehart.

Any discussion? All those in favor?

ALL: Aye.

CHAIRMAN KONYK: Motion carries unanimously.

Next item is the remarks of the zoning director.

MR. SEAMAN: And there are none.

CHAIRMAN KONYK: Next is the agenda. Are there any corrections to the agenda?

MR. SEAMAN: Yes. B of A 2002-045 has been postponed

thirty days to September 19th.

Staff is looking at some other design options.

CHAIRMAN KONYK: Okay. The first item on the agenda is a postponed item. B of A 2002-043; Dr. Casey Homasey, agent for the Muslim Community Center.

Is this by right?

MR. SEAMAN: It's by right.

CHAIRMAN KONYK: So that one will stay postponed till the September meeting.

MR. SEAMAN: September 19th.

CHAIRMAN KONYK: September 19th.

The next item is B of A 2002-050; Land Research Management. Is that by right?

MR. SEAMAN: By right.

CHAIRMAN KONYK: So that will stay on -- go on September 19th, okay.

The first item on the consent is Michael and Donna Erickson, to allow an existing fence to exceed the maximum height.

Is the applicant present?

MR. ERICKSON: Yes.

CHAIRMAN KONYK: Can we have your name for the record?

MR. ERICKSON: Michael Erickson.

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

MR. ERICKSON: Yes, I do.

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

MR. SEAMAN: There are two responses, and they're both in approval.

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

Seeing none, your item remains on consent.

MR. ERICKSON: Thank you.

STAFF RECOMMENDATIONS

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

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

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

YES. There are unique circumstances surrounding this property that warrant consideration. The property consists of four lots in Royal Palm Estates. The property is located at the north end of the subdivision and is bordered by the LWDD lateral canal #4. Avocado Avenue that dead-ends into the canal borders the property to the west. The multifamily neighborhood has established heavy vegetation in many areas consisting of high hedges and older slash pine; all of which have contributed to the owner's secluded and

desirable environment. With the construction of small lot multifamily and single-family development adjacent to the owner's larger 1.6-acre property, the rural-like privacy has disappeared. The applicant also has several dogs that have increasingly been teased by neighborhood children. The applicant requests the 6' fencing on the west and east to not only provide the lost secluded privacy he has enjoyed for over 25 years but also to shelter his dogs from nearby children and to prevent the dogs from jumping over a lower fence and roaming the neighborhood. The 5' chain-link fence currently located at the front property line is not visible because an existing high ficus hedge that surrounds the fence entirely. Property owners adjacent to the subject property have submitted letters in support of the applicant's variance request.

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

NO. The circumstances are not the result of the applicant. The owner's secluded and desirable environment has disappeared with the construction of small lot multifamily and single-family development adjacent to the owner's larger 1.6-acre property. The applicant also has several dogs that have increasingly been teased by neighborhood children. The applicant requests the 6' fencing on the west and east to not only provide the lost secluded privacy he has enjoyed for over 25 years but also to shelter his dogs from nearby children and to prevent the dogs from jumping over a lower fence and roaming the neighborhood. The 5' chain-link fence currently located at the front property line is not visible because of an existing high ficus hedge that surrounds the fence entirely. Property owners adjacent to the subject property have submitted letters in support of the applicant's variance request.

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

NO. Granting the variance will not confer upon the applicant privileges denied to other parcels of land by this code. The property is located at the north end of the subdivision and is bordered by the LWDD lateral canal #4. Avocado Avenue that dead-ends into the canal borders the property to the west. There is established heavy vegetation in many areas consisting of fences, high hedges, and older slash pine; all of which have contributed to the secluded environment. Granting of the variance will not be disruptive to the surrounding rural-like privacy enjoyed by others in the subdivision.

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

NO. The variance request improves the quality of life for the applicant by restoring the secluded environment he has enjoyed for over 25 years and by protecting his dogs from children, as well as keeping the dogs from leaping over a lower fence.

5. THE APPROVAL OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL

ALLOW A REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

NO. The proposed variance does not have a negative impact on the adjacent and surrounding uses. There is established heavy vegetation in many areas consisting of fences, high hedges, and older slash pine; all of which have contributed to the secluded environment. Granting of the variance will not be disruptive to the surrounding rural-like privacy enjoyed by others in the subdivision.

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

NO. The approval of the variance does not have negative impacts on the adjacent or surrounding uses. The 5' chain-link fence currently located at the front property line is not visible because an existing high ficus hedge that surrounds the fence entirely. Property owners adjacent to the subject property have submitted letters in support of the applicant's variance request. The 6' fencing proposed along the west and east property line will locate among the existing vegetation. Conditions will be imposed for additional landscaping to further screen the west and east fencing from adjacent neighbors and to maintain the secluded character of the area.

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

NO. With the condition imposed by staff for additional landscaping along the outside of the proposed 6' fencing along the west and east property line, any negative impact from the variance will be minimal.

ENGINEERING COMMENT

The requirement that the Base Building Lines for the subject property be thirty (30) from the centerlines of Lime Road and Avocado Avenue is hereby waived. The Base Building Lines are hereby established at the existing right-of-way lines of the above-noted streets, being the south property line of the subject lots and the west property line of Lot 2, Block 10, as platted.

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 February 4, 2003, the applicant shall simultaneously submit with his Building permit application, a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board **(DATE: MONITORING BLDG PERMIT: BLDG)**.
3. By February 4, 2003, the applicant shall install Ficus plants 18-24" high, planted 36" apart along the west and east property lines. The planting of the hedge is required only along the proposed chain-link fence where existing

vegetation is not sufficient to screen the fence from off-site views. A site inspection shall be required by the Landscape Inspectors (**DATE: LANDSCAPE-ZONING**).

CHAIRMAN KONYK: The next item is B of A 2002-042; Boose, Ciklin & Casey, agent for Dale and Kelly Morris, and Jerry Claudill and Kathleen Beeson.

Is the applicant present? Your name for the record.

MR. MORRIS: Dale Morris.

CHAIRMAN KONYK: Staff has recommended one condition. Do you understand and agree with those?

MR. MORRIS: Yes.

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

MR. SEAMAN: Two responses -- one approval and one clarification.

CHAIRMAN KONYK: And it was resolved.

MR. SEAMAN: Well, one's approval -- yeah, clarification --

CHAIRMAN KONYK: Okay. Any member of the public feel this item warrants a full hearing?

Seeing none, this item remains on consent.

STAFF RECOMMENDATIONS

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

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

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

YES. The lake was excavated sometime prior to 1989, according to a Palm Beach County aerial, which was prior to the adoption of the current ULDC excavation standards. The applicant was informed that the existing pond was encroaching into the side interior setback and a variance for the encroachment would have to be obtained or the pond would have to be filled.

The general intent of the 15-foot setbacks for ponds is to ensure adequate area for maintenance, land area to compensate for erosion, and to allow room for someone to walk along the shore without falling into the pond. The encroachment occurs towards the west side of the pond and these general concerns are not an issue.

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

NO. Both property owners purchased their respective properties in 1999 and 2001 and assumed in good faith that the pond was excavated according to regulations in effect at the time it was excavated and was not in violation of permitting requirements. It was not until the east property owner decided to construct a SFD that he discovered the pond encroached in the setback.

Both property owners are now aware of the encroachment and have submitted this joint application to request the variance to allow the pond to remain as is without costly reconstruction and adding fill. The pond enhances both of these rural residential lots. The pond is located along the northern portion of the lots so it is away from the local street that provides access to these two lots. The pond meets all other setback requirements. Granting of this variance will allow both property owners the enjoyment of the pond in its current configuration.

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

NO. The granting of the variance **will not grant** the applicants any special privilege. The variance is required in order to allow Mr. and Mrs. Morris to obtain a permit to construct their residence on the property and to allow the lot to the west (#5) to remain without being in violation. The pond has existed in this configuration for at least 13 or more years without any formal complaints being filed to the Code Enforcement Division by surrounding neighbors. The only two parties impacted by the encroachment are the applicants. The encroachment occurs towards the western part of the pond and therefore, the concerns with safety and erosion are not an issue. Variances have been approved by the Board of Adjustment in the past, based on similar situations and constraints.

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

YES. If the variance is denied, the applicants would have to haul fill into the site to fill that portion of the pond that encroaches the common property line.

Other ponds have been excavated in the county before the current ULDC requirements were adopted that encroach property lines. Some have applied and were granted variances for setback encroachment. The fact there were no permitting or inspections required until 1992, in certain cases, resulted in the contractor excavating beyond the property line. The pond encroachment across the property line did not become an issue until the owner of the vacant parcel to the east decided to construct a SFD on their property. In order to comply with the Code, both owners are requesting a variance for the existing pond to remain in its current location.

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, the variance relief is only for that portion of the pond that traverses the common property line of these two lots. The remainder of the pond on the two lots complies with the current ULDC setback requirement. The intent of the 15-foot setback is to establish area to maintain the pond from the shore, ensure a safe pedestrian access to and along the pond, and to compensate for future erosion. Since the encroachment occurs towards the western part of the pond all three

concerns addressed by the required setback do not apply in this particular situation. The variance application **is the minimum necessary** to make a reasonable use of this existing pond.

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 Comp Plan and ULDC is to ensure property developed in the AR zoning district is maintained as rural residential living. The ponds were excavated, in many cases, on the lots to address the poor drainage and to allow the property owner the ability to use the fill without having to purchase it. Since there was no permitting or inspections required by the County until 1992, many ponds were excavated into setbacks and the encroachment was not detected for many years. As stated above, the general intent of the code **will be met** if this variance is granted.

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

NO. Many lots in the rural residential subdivisions in Palm Beach County support ponds. If the ponds were excavated prior to 1992, there were no permitting or inspections required. Many of these ponds exist and unless someone submits to the County a building permit for the lot, the fact the pond encroaches into the setback is never discovered. The pond has existed for at least 13 years or more without any complaints from either property owner or adjacent property owners. The property owners are requesting this variance in order to comply with the ULDC and to be able to sell their properties in the future with no complications.

ENGINEERING COMMENT

No comments.

ZONING CONDITIONS

N/A

CHAIRMAN KONYK: Next item on consent is B of A 2002-044; Anthony and Sherri Marino, proposed pool and screen roof enclosure to encroach.

Your name for the record.

MR. MARINO: Anthony Marino.

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

MR. MARINO: Yes.

CHAIRMAN KONYK: Any member of the public to speak against this item? Any letters?

MR. SEAMAN: Two responses -- one approval and one clarification.

CHAIRMAN KONYK: Okay. Any member of the board feel this item warrants a full hearing?

Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

YES. Many of the lots support SFD with swimming pools and screen roof screen enclosures. This particular lot 3 is located on Deerhurst Crescent Circle. The lot is 120 deep and 70 feet in width. In the back yard there is a 10' utility easement and a 12-foot drainage easement (DE). The applicant is requesting to construct a screen roof screen enclosure and a pool along the north property line if the variance is granted. The proposed screen roof scree enclosure will encroach into the required 7.5 foot side interior yard setback by 4 feet for a 3.5 foot variance and the proposed swimming pool will encroach into the required 10.5 foot side interior yard setback by 5 feet for a 5.5 foot variance. The applicant did explore other design options with staff before requesting a variance; however, the proposed location of the screen roof screen enclosure and swimming pool is the only reasonable location for the two structures. There is an existing mature ficus hedge along the north property line that mitigates the side setback encroachment.

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

NO. This is **not** a self-created hardship. The applicant purchased the property in December 1999, with the house in the present configuration. They were informed that they can easily construct a pool and screen enclosure in the north side but were not aware that a variance will be required from the Board of Adjustment. The neighbor to the north on lot 3 has been contacted with regards to the proposed screen roof screen enclosure and swimming pool setback encroachment and supports the request. There is a mature ficus hedge along the north property line that will mitigate any negative impacts associated with requested variances.

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

NO. Other residents in Palm Beach County and this Subdivision have screen roof screen enclosures and swimming pool in their outdoor area. Due to the original location of the SFD and existing easement in the rear property, there are no options available to the applicant in terms of constructing the screen roof screen enclosure and the swimming pool without the need for a setback variance. The 3.5 foot variance for the screen roof screen enclosure and the 5.5 foot variance for swimming pool will occur along the north property line. There is an existing mature ficus hedge that buffers the existing pool and activity from the adjacent lot. The owner of lot 3 to the

north has provided the applicant with a letter of support for the setback encroachment.

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

YES. As previously stated, the applicant has explored other design options with staff that would avoid the need for a variance. However, having to deal with the existing location of the SFD, utility and drainage easement in the rear yard have left no options other than a variance. The existing mature ficus hedge will mitigate any setback encroachment. If the variance is denied, the applicant would not be able to construct the pool and a screen enclosure over the pool.

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 allow** the applicant a reasonable use of their property. The applicant purchased their property in 1999 and was unaware at the time they will need a variance to construct a pool and screen enclosure over it. The applicant is requesting a 3.5 foot side interior setback for the screen enclosure and 5.5 foot setback for the pool that will be mitigated by the existing mature ficus hedge along the north property line.

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 setback provision is to ensure minimum setbacks are maintained to protect property values, ensure air/light is allowed to move freely and a minimum distance is maintained between structures. If this variance is granted, the applicant can comply with all the above criteria. The existing mature ficus hedge will mitigate any negative impacts associated with the screen roof screen enclosure and the swimming pool. The property owner on lot 3 to the north has provided a letter of support of the variance request.

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 would only affect the property owner to the north. This property owner has provided the applicant with a letter of support of the variance. The ficus hedge will mitigate both setbacks encroachment. There are other lots within this development that have pools and enclosures. The applicant also obtained the HOA approval if the variance is granted.

ENGINEERING COMMENT

Note that the existing storm sewer buried within the 12-foot drainage easement must be located prior to and protected from damage during any excavation encroaching the easement for pool installation. (ENG)

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 February 17, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the site plan, Exhibit 9, presented to the Board, simultaneously with the building permit application. (DATE: **MONITORING BLDG PERMIT: BLDG**)
3. By August 15, 2003, the applicant shall obtain a building permit for the proposed pool and screen roof screen enclosure in order to vest the variance approved pursuant to BA2002-044 (DATE: **MONITORING-BLDG PERMIT**).

CHAIRMAN KONYK: The next item was postponed -- B of A 2002-045.

Next item on the consent is B of A 2002-046; Daniel Fioramonti, to allow an existing structure to encroach in the required side and rear setback.

Your name for the record.

MR. FIORAMONTI: Daniel Fioramonti.

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

MR. FIORAMONTI: Yes.

CHAIRMAN KONYK: Any member of the public to speak against this item? Any letters?

MR. SEAMAN: Yes. There's one and it's just for clarification.

CHAIRMAN KONYK: Any member of the board feel this item warrants a full hearing?

Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

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

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

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

YES. There **are unique circumstances** surrounding this lot that warrant consideration. The property owner purchased the property in July 2001, and a survey completed in June 2001 indicates a detached accessory garage with a 4.3 foot side interior setback, and an accessory shed with an 8 foot side interior setback, and 7 foot rear setback. The owner purchased the property without knowing that the accessory structures did not meet required setbacks. According to the owner, the previous owner, real estate agent, or surveyor provided no information related to the setbacks for the structures. A historical record search has not located any building permits for the

existing accessory structures. The applicant is requesting a variance to allow the existing structures to remain in their present location. The subject lot currently supports mature vegetation that mitigates the variance request.

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

NO. The owner purchased the property without knowing that the accessory structures did not meet required setbacks. According to the owner, the previous owner, real estate agent, or surveyor provided no information related to the setbacks for the structures. A historical record search has not located any building permits for the existing accessory structures. The applicant is requesting a variance to allow the existing structures to remain in their present location.

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

NO. The ULDC permits a SFD to have accessory structures. In the AR zoning district, conforming lots are required to have a 25-foot side interior and rear setback. The subject lot has two accessory structures that were constructed without building permits by a previous owner in the required side and rear setbacks. The applicant is seeking a variance to allow the accessory structures to remain in their currently location.

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

YES. Denial of the requested variance would be an **undue hardship** to the applicant. The owner purchased the property in its existing condition, unaware of the required accessory structure setbacks. Denial of the variance would require the property owner to demolish the shed and garage that were purchased with the SFD. The garage and shed have existed in their current location for several years and according to neighboring property owners, have little impact on adjacent owners or uses.

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 requested variances are the **minimum variances necessary** that will allow the existing structures to remain in their present locations. If the variance is denied, the applicant would be responsible for the demolition of an accessory garage and shed that was not constructed by the applicant. The subject site supports existing mature vegetation that mitigate the setback encroachments.

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 AR accessory setbacks is to maintain the rural characteristics of the area, and maintain privacy from adjacent structures. The neighboring property owners have written in support of the requested variances, and do not feel their privacy will be compromised, since the structures have existed for some time. The subject site supports existing mature vegetation that mitigates the setback encroachments.

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

NO. Granting the requested variance **will not be injurious** to the surrounding area. The adjacent property owners have provided written support of the variance request to the applicant. The garage and shed have existed in their current location for several years and according to neighboring property owners, have little impact on adjacent owners or uses. The subject site supports existing vegetation that will mitigate the setback encroachments.

ENGINEERING COMMENT

No comments. (ENG)

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 November 20, 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 (Exhibit 9) presented to the Board, simultaneously with the building permit application. **(DATE: MONITORING-BLDG PERMIT)**
3. By February 20, 2003, the applicant shall obtain a building permit for the existing shed and detached garage in order to vest the variance approved pursuant to BA 2002-046. **(DATE: MONITORING-BLDG PERMIT)**

CHAIRMAN KONYK: The next item on the consent is B of A 2002-047; Tony Wilson, agent for Agape Church of God, to allow an existing sign to encroach in the required front setback.

Your name for the record.

MR. WILSON: Tony Wilson.

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

MR. WILSON: Yes, I do.

CHAIRMAN KONYK: Any member of the public to speak against this item? Any letters?

MR. SEAMAN: No, there are none.

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

Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

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

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

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

YES. There **are unique circumstances** surrounding this site that warrant consideration. The subject lot is a conforming lot that meets all required AR setbacks. The existing sign is located in a location that ensures visibility from Okeechobee Boulevard. Moving the sign 4.5 feet south to meet the base building line setback would interfere with an existing drive aisle and drop off area. In addition, the sign would not be seen from Okeechobee Blvd. due to existing mature landscaping.

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

NO. The applicant received a building permit (BO1013852) to construct a freestanding illuminated pylon sign May 24, 2001. During the construction process, the Building Division informed the applicant the sign location did not meet the required 5-foot setback from the base building line. The sign was constructed with a 6-inch front setback from the property line. The applicant is requesting a variance of 4.5 feet due to a lack of alternate locations for the sign.

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

NO. The five foot base building line setback is intended to insure that signage does not interfere with pedestrian and vehicular traffic in the right-of-way. The existing sign is located in an existing required landscape buffer and will not interfere with pedestrian or vehicular traffic. The applicant cannot meet the required setback due to an existing drive aisle and drop off area. In addition, moving the sign south will limit sign visibility from Okeechobee Boulevard.

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 existing sign serves as an identification point for the church. The sign cannot be relocated to meet the base building line setback due to an existing drive aisle and drop off area. In addition, mature required

landscaping would limit the sign visibility from Okeechobee Boulevard. The existing sign is located in a location that insures visibility from Okeechobee Blvd.

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 requested variance is the **minimum variance necessary** to allow the existing sign to remain in the current location. The five foot base building line setback is intended to insure that signage does not interfere with pedestrian and vehicular traffic in the right-of-way. The existing sign is located in an existing required landscape buffer and will not interfere with pedestrian or vehicular traffic. The applicant cannot meet the required setback due to an existing drive aisle.

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

YES. The five foot base building line setback is intended to insure that signage does not interfere with pedestrian and vehicular traffic in the right-of-way. The existing sign is located in an existing required landscape buffer and will not interfere with pedestrian or vehicular traffic. The existing sign is located in a location that insures visibility from Okeechobee Blvd.

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

NO. Granting the requested variance **will not be injurious** to the surrounding area. The existing sign does not interfere with any adjacent lots or right-of-way access. The existing sign is separated from the current roadway by a drainage canal. The existing sign serves as an identification sign for the parcel.

ENGINEERING COMMENT(S)

Note that the submitted survey and legal description do not reflect the additional 10 ft. right-of-way for Okeechobee Blvd. (i.e., 60 ft. from centerline of the original 100 ft. wide right-of-way) per O.R.B. 2755, Pg. 280. This existing south right-of-way line is hereby established as the base building line for the subject property. **(ENG)**

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 October 15, 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 (Exhibit 9) presented to the Board, simultaneously with the Building permit application. **(DATE: MONITORING-BLDG PERMIT: BLDG)**
3. By January 15, 2003, the applicant shall obtain a building permit for the

freestanding sign in order to vest the variance approved pursuant to BA 2002-047. **(DATE: MONITORING-BLDG PERMIT)**

CHAIRMAN KONYK: The next item is B of A 2002-048, Sidney and Iris Guadagno, owners to allow a proposed pool and screen roof enclosure to encroach into the required side and rear setback.

Your name for the record.

MS. GUADAGNO: Iris Guadagno.

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

MS. GUADAGNO: Yes.

CHAIRMAN KONYK: Any member of the public to speak against this item? Any letters?

MR. SEAMAN: There are seven responses -- six approval and one is clarification.

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

Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

YES. Track T & V for the Lake Charleston PUD was approved with flexible property development regulations, which permit a 6 foot side interior setback for the SFD. The screen roof screen enclosure was also permitted to be constructed at 6 foot setback and both side interior setbacks. The subject property lot 138, is 62 feet in width by 105 feet depth and supports a 4,269 sq/ft SFD constructed in 1996 (B96008757). The current property owner purchased the subject lot in 1996 and has made no improvement to the property. The applicant is proposing a swimming pool to encroach the rear and side setbacks. The applicant is also proposing a screen roof screen enclosure to encroach the rear setback. The buildable area in the rear yard for a pool is only approximately 5 feet. The applicant cannot comply with the required 10.5 foot setback and have a standard pool with enough space between the pool and screen enclosure for safe circulation. These variances for the screen roof screen enclosure and pool, if granted, will allow the applicant the ability to enjoy the outdoor yard to the greatest extent possible.

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. This **is not** a self-created hardship. As previously indicated,

the applicant was not aware of the rear yard's constraints. They were under the impression that the rear yard could accommodate a screen enclosure and a swimming pool. After determining the lot limitation, the applicant explored design options but was left with applying to the Board of Adjustment for rear and side setbacks variances for the proposed pool and screen enclosure.

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

NO. Granting the variance **shall not** confer upon the applicant special privilege(s) denied by the comprehensive plan and this code to other parcels of land, buildings, or structures, in the same district. The applicant is proposing to construct a swimming pool and a screen-roofed screen enclosure in the rear yard, which are allowed in the zoning district in which this property is located. The buildable area in the rear yard for a pool is only approximately 5 feet. Along the rear property line there is a 6-foot ficus hedge. To the east side an existing 6-foot wood fence create an adequate buffer to mitigate the impact of the proposed structures. In addition, several variances were approved by the Board for pool and screen enclosure in the Lake Charleston PUD. (BA-980041, BA2001-003, BA2001-054, BA2001-070).

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

YES. A literal interpretation of the Code would require the applicant to meet a 10.5 foot rear and side setback for the pool and 7.5 foot rear setback for the screen enclosure. The property owner is limited in design options due to the location of the existing SFD. The applicant has a petition letter from the property owners to the north, south, and east stating they don't object to the encroachment of a pool into the setbacks. In addition, medical documentation submitted by the applicant states that because of the applicant's son medical condition it would be beneficial to have a screened-in swimming pool.

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 variance is the minimum required to make reasonable use of the parcel of land. The lot size is 62 feet in width by 105 feet in depth. The existing SFD is setback at approximately 17 feet from the rear property line and since the Code requires pools to be setback at 10.5 feet from rear and side property lines and screen roof screen enclosure to be 7.5 from property rear line, the applicant cannot comply with the required setbacks and have a standard pool size with enough room between the pool and screen enclosure for a safe circulation.

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 rear and side setbacks provision for pool and screen enclosure is to provide minimum separation between structures and discourage the creation of “visual wall” that can detract neighborhood ambiance. Structures too close to one another have a tendency to reduce privacy and create potential safety hazards for emergency medical service maneuverability, as well as small unusable areas. The variance requests are compatible with the surrounding area, which consists of similar homes; many with pools and screen enclosures. Any potential visual barriers that might be created by the setback encroachment are mitigated by the existing 6-foot ficus hedge along the rear property line and existing 6 foot wood fence along the east side property line. If the requested variances are granted, it will allow the applicant to add typical amenities found in S. Florida. The amenities will also enhance the quality of life for the property owners.

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 requested variances **will not be injurious** to the surrounding area. According to the aerial map, many other residents in this neighborhood have a pool. The requested side interior setback for the proposed pool will improve the quality of life for the applicant and improve the appearance of the lot. Also, the neighbor to the south, north, and east has provided the applicant with a petition letter of support for the requested variance.

ENGINEERING COMMENT

No comments.

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 February 17, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result letter and a copy of the Site Plan (Exhibit 9) presented to the Board, simultaneously with the building permit application. **(DATE: MONITORING-BLDG PERMIT)**
3. Prior to August 15, 2003, or final Certificate of Completion, the applicant shall install screening along the west property line from the southwest corner of the existing patio to the rear property line. The screening shall consist of a 6' fence similar to the fence along the east property line or plant material that shall be maintained ultimately at 6' to 8' in height. **(DATE: MONITORING-LANDSCAPE)**
4. By August 15, 2003, the applicant shall obtain a building permit for the proposed swimming pool and screen roof screen enclosure in order to vest the variance approved pursuant to BA2002-048. **(DATE: MONITORING-BLDG PERMIT)**

CHAIRMAN KONYK: Next item is B of A 2002-049, Land Design South, for Brookside Tree Farm, to allow a proposed subdivision to comply with the RE zoning district regulations.

Hi, name for the record.

MS. MORTON: Jennifer Morton with Land Design South.

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

MS. MORTON: We just have one clarification to one of the conditions of approval. It would be condition two, and I spoke with Staff last night -- yesterday about this.

Can I read it into the record or do you want to --

MR. SEAMAN: Should I read that condition into the record?

CHAIRMAN KONYK: Yes.

MR. SEAMAN: Condition number two should say, By January 15, 2003, the applicant shall receive DRC site plan approval for the proposed subdivision that meets Article 8, Stormwater Management requirements of the ULDC.

VICE CHAIRMAN BASEHART: By when?

MR. SEAMAN: By January 15, 2003.

VICE CHAIRMAN BASEHART: You think you can get it done? I know how slow they are at DRC.

MS. MORTON: Well, actually, it's a code requirement that we have to have pulled the building permit within a year of our variance so it's just getting -- our site plan must comply from a Stormwater Management perspective.

MR. SEAMAN: And we're trying to also eliminate all the --

CHAIRMAN KONYK: By January 2003 is in a few months.

MR. SEAMAN: True.

You should be on the agenda very quickly.

MS. MORTON: Yeah, we actually have a petition in the system right now, and we're holding it for our variance.

In addition, the code is being modified to -- where the variance will no longer be required.

CHAIRMAN KONYK: Okay. Any member of the public to speak against this item? Any letters?

MR. SEAMAN: There are two letters -- well, there are no letters.

CHAIRMAN KONYK: Okay. All right. Any member of the board feel this item warrants a full hearing?

Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

Approval for the existing addition and Denial for the existing 6' fence in the front yard. Based upon the following application of the standards enumerated in Article 5, Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

BUILDINGS IN THE SAME DISTRICT:

YES. There **are unique circumstances** surrounding the subject site that warrant consideration. The 15 lot, 76 acre parcel will comply with the Comprehensive Plan maximum density of .2 (1 unit per 5 acres). The applicant is seeking variance relief due to loss of land area to dedicated roadways. The Palm Beach County Board of County Commissioners previously directed staff to complete a text amendment to the ULDC AGR property development regulations that would allow the use of RE property development regulations in the AGR area. Staff is currently drafting the appropriate language. The proposed variance is consistent with the Ag Reserve Master Plan and BCC direction to allow limited low density residential uses in the Ag Reserve.

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

NO. The Palm Beach County Board of County Commissioners previously directed staff to complete a text amendment to the ULDC AGR property development regulations that would allow the use of RE property development regulations in the AGR area. Staff is currently drafting the appropriate language. The proposed variance is consistent with the Ag Reserve Master Plan and BCC direction to allow limited low density residential uses in the Ag Reserve. The Board of Adjustment approved a similar variance that allowed an AGR subdivision to utilize RE property development regulations in 1999 (BA 99-092).

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

NO. Granting the requested variance **will not confer** a special privilege to the applicant. The applicant is requesting a variance that is consistent with the Ag Reserve Master Plan and BCC direction to allow limited low density residential uses in the Ag Reserve. The 15 lot, 76 acre parcel will comply with the Comprehensive Plan maximum density of .2 (1 unit per 5 acres). The Board of Adjustment approved a similar variance that allowed an AGR subdivision to utilize RE property development regulations in 1999 (BA 99-092).

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

YES. A literal interpretation of the ULDC would be an **unnecessary and undue hardship** to the applicant. The current subdivision plan requires a variance to accommodate dedicated ROW. If the roadway were included in the lot, the applicant would meet the minimum AGR lot size requirements. In addition, a planned amendment to the ULDC is intended to allow the use of RE development regulations in the AGR.

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 proposed subdivision will meet the Comprehensive Plan maximum density of .2 (1 unit per 5 acres). The lots will be less than the AGR zoning district minimum of 5 acres due to the proposed right-of-way (ROW) that is planned to provide access to the lots. The acreage that is dedicated to the ROW cannot be counted as part of the lot acreage to meet the lot size minimum. If the roadway were included in the lot, the applicant would meet the minimum AGR lot size requirements.

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

YES. The 15 lot, 76 acre parcel will comply with the Comprehensive Plan maximum density of .2 (1 unit per 5 acres). The Palm Beach County Board of County Commissioners previously directed staff to complete a text amendment to the ULDC AGR property development regulations that would allow the use of RE property development regulations in the AGR area. Staff is currently drafting the appropriate language. The proposed variance is consistent with the Ag Reserve Master Plan and BCC direction to allow limited low density residential uses in the Ag Reserve. The Board of Adjustment approved a similar variance that allowed an AGR subdivision to utilize RE property development regulations in 1999 (BA 99-092).

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

NO. Granting the requested variance **will not be injurious** to the area involved. The proposed subdivision will meet the intent of the AGR Master Plan to allow limited low density residential uses. Approval of the variance will allow the applicant to construct an internal roadway for the proposed lots, which will have little impact on surrounding uses.

ENGINEERING COMMENT

Note that the proposed subdivision plan, as submitted, shows no provision for a separate common area water management tract to meet requirements for control and treatment of storm water runoff from the development. This area, as well as the street tract, must be separate from the individual lots. **(ENG)**

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on August 15, 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 January 15, 2003, the applicant shall receive DRC site plan approval for the proposed subdivision that includes a separate common area water management tract. **(DATE: MONITORING-ZONING)**
3. By August 15, 2003, the property owner shall obtain a building permit for one (1) single family dwelling in order to vest the variance approved pursuant to

BA 2002-049. (DATE: MONITORING-ZONING)

VICE CHAIRMAN BASEHART: Madam Chairman, I'd like to make a motion to approve the consent agenda with the conditions recommended by Staff, and as part of my motion I'd like to make the staff report for each item become the record of the hearing.

And that would be for petitions B of A 2002-035; 042; 044; 046; 047; 048 and 049.

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

MR. SEAMAN: I need to interject.

CHAIRMAN KONYK: Okay. Well, wait till we get finished with the motion. What do you want to --

MR. SEAMAN: There's a condition that should have been added to 035 which the applicant agreed to.

CHAIRMAN KONYK: Okay.

VICE CHAIRMAN BASEHART: Is the applicant still here?

CHAIRMAN KONYK: Okay. What is the condition?

MR. SEAMAN: The fourth condition and it should read, The existing ficus hedge located along the south property line, as well as the additional ficus required by condition number three, shall be maintained at a height of no more than twelve feet.

VICE CHAIRMAN BASEHART: All right. So you agree with this --

MR. ERICKSON: Yes. And I did notice that that wasn't in there.

VICE CHAIRMAN BASEHART: My motion will include that added condition to that petition and, of course, the amendment to condition number two in 049.

CHAIRMAN KONYK: Does the code allow twelve foot hedges?

MR. SEAMAN: Did you read the front --

CHAIRMAN KONYK: I didn't get my agenda.

MR. SEAMAN: Okay. Yes, it does, in certain conditions.

CHAIRMAN KONYK: Okay. All right. So we have a motion by Mr. Basehart with the added condition to B of A 2002-035 and the applicant acknowledges that he is aware of that.

MR. PUZZITIELLO: Second.

CHAIRMAN KONYK: Second by Mr. Puzzitiello.

All those in favor?

ALL: Aye.

CHAIRMAN KONYK: Opposed? Motion carries unanimously. You all have your variances.

The next item on the agenda is the attendance record.

(unintelligible comment from member of the board)

CHAIRMAN KONYK: Oh, he circled that he was away on business, and I guess he wants us to know that he should be approved. And Mr. Puzzitiello was also away on business -- and that's it.

And everybody else was either here or not required.

Can we have a motion to have these as excused absences?

VICE CHAIRMAN BASEHART: I will make that motion.

CHAIRMAN KONYK: Motion by Mr. Basehart.

Second by --

MR. SADOFF: Second.

CHAIRMAN KONYK: -- Mr. Sadoff. All those in favor?

ALL: Aye.

CHAIRMAN KONYK: Motion carries unanimously. We are

adjourned.
(Thereupon, the meeting adjourned at 9:12 a.m.)

CERTIFICATE

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, RHONDA LATHAM, a Certified Shorthand Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

Dated this 31ST DAY OF AUGUST, 2002.

Rhonda Latham
Certified Shorthand Reporter