

PALM BEACH COUNTY

BOARD OF ADJUSTMENT

Thursday, November 21, 2002

9:00 a.m. - 10:06 a.m.

100 South Australian Avenue

West Palm Beach, Florida

Reporting:

Vanessa Kernick

Notary Public

A T T E N D E E S

Chelle Konyk, Chairman

Robert E. Basehart, Vice Chairman

Ms. Nancy Cardone

Mr. Donald Mathis

Mr. Bart Cunningham

Mr. Stanley Misroch

Mr. Joseph Jacobs

David Cuffe, Civil Engineer II

Amy Petrick, Asst. County Attorney

Annie Helfant, Asst. County Attorney

Alan Seaman, Senior Planner, Zoning

Damon Kolb, Planner 11

Miradieu Aubourg, Jr., Planner I

Annette Stabilito, Secretary

Juanita James, Zoning Technician

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P R O C E E D I N G S

CHAIRMAN KONYK: I will call the 11/21/2002 Board of Adjustment Meeting to order and start with the roll call and declaration of quorum.

MS. MOODY: Mr. William Sadoff.

MR. SADOFF: (No response.)

MS. MOODY: Mr. Raymond Puzziteiello.

MR. PUZZITIELLO: (No response.)

MS. MOODY: Mr. Bart Cunningham.

MR. CUNNINGHAM: Here.

MS. MOODY: Ms. Chelle Konyk.

CHAIRMAN KONYK: Here.

MS. MOODY: Mr. Robert Basehart.

VICE CHAIRMAN BASEHART: (No response.)

MS. MOODY: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. MOODY: Mr. Joseph Jacobs.

MR. JACOBS: (No response.)

MS. MOODY: Mr. Stanley Misroch.

MR. MISROCH: Here.

MS. MOODY: Mr. Donald Mathis.

MR. MATHIS: (No response.)

CHAIRMAN KONYK: Okay. Next item on the agenda is the proof of publication which I have before me in the Palm Beach Post on November 3rd.

Mr. Basehart has joined us. And Mr. Jacobs. You want to move that?

Remarks of the Chairman, for those of you who are not familiar with how the Board conducts its business, this meeting is divided into two parts, the consent agenda and the regular agenda.

Items on the consent are items that have been recommended by staff for approval either with or without conditions, the applicant agrees with the conditions, there's no opposition from the public and the Board does not feel the item warrants a full hearing.

If the applicant does not agree with the conditions, there's public opposition or a board member feels the item warrants a full hearing, your item will be pulled from the consent and reordered to the first item on the regular agenda.

And on regular agenda are items that have either been recommended for denial by staff or

the applicant does not agree with the condition, there's opposition from the public or a board member feels the item warrants a full hearing.

Items on the regular agenda will be introduced by staff, then we'll have the applicant give their presentation. After that, the staff will give their presentation. Any questions from the Board will be addressed after the public portion of the hearing is closed, and we will vote on the item.

Next item on the agenda is the approval of the minutes from September and October, we got them combined this time.

Does anybody have any corrections or additions to the minutes? Seeing none, can I have a motion to approve September's minutes first.

MR. CUNNINGHAM: So moved.

VICE CHAIRMAN BASEHART: Second.

CHAIRMAN KONYK: Motion by Mr. Cunningham, second by Mr. Basehart. All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries unanimously. Can I have a motion to approve the October minutes?

MR. CUNNINGHAM: So move.

VICE CHAIRMAN BASEHART: Second.

CHAIRMAN KONYK: Motion by Mr. Cunningham, second by Mr. Basehart. Any objections? Motion carries unanimously.

Mr. Mathis has joined us, please let the record reflect.

Next item is the remarks of the zoning director. Do you have anything?

MR. SEAMAN: There are none.

CHAIRMAN KONYK: Okay. So then the next item is the agenda. Is there any corrections to the agenda?

MR. SEAMAN: Yes, there are a couple of corrections to the postponed items along with 2002-065, which you do have on the agenda. We need to include Subdivision-109 which deals with right-of-way issues and will go in tandem with 065 postponement, both of which are being requested be postponed for 60 days.

Then also included in the postponement would be 2002-076, and that is a request for a 30-day postponement.

CHAIRMAN KONYK: Okay, the two items, is

that by right?

MR. SEAMAN: It is --

CHAIRMAN KONYK: Or do we need to vote on that?

MR. SEAMAN: You need to vote on it.

CHAIRMAN KONYK: Okay. Item 2002-065 and SD-109, which are both requesting a 60-day postponement, does anybody have any objection to that?

VICE CHAIRMAN BASEHART: Is there anybody from the public that came to speak on those items?

CHAIRMAN KONYK: Okay, seeing none, does someone want to make a motion to postpone?

VICE CHAIRMAN BASEHART: So moved.

MR. JACOBS: Second.

CHAIRMAN KONYK: Motion by Mr. Basehart, second by Mr. Jacobs. All those in favor.

BOARD: Aye.

CHAIRMAN KONYK: Motion carries unanimously. So 2002-065 and SD-109 will be postponed to the January hearing.

MR. SEAMAN: January 16th.

CHAIRMAN KONYK: January 16th.

Next item for postponement is SD-2002-76 for a 30-day, right?

MR. SEAMAN: No, it's SD-109.

CHAIRMAN KONYK: I did them together, I just did them both for the 60-day.

MR. SEAMAN: I thought I heard SD -- but it's 2002-076.

CHAIRMAN KONYK: Huh?

MR. SEAMAN: 2002-076.

CHAIRMAN KONYK: Right. Oh, that's not an SD, okay. 2002-76.

MR. SEAMAN: For 30 days.

CHAIRMAN KONYK: 30 days. Is that by right?

MR. SEAMAN: This is by right.

CHAIRMAN KONYK: By right. So we don't need to vote on that. So 2002-76 will be postponed for 30 days. Was there anyone here to speak on that item? Okay.

Next item on the agenda is going to be consent, it's 2002-061, Karen and Gary Scantland, to allow an existing gazebo to encroach into the required side setback.

Is the applicant present? Could we have your name for the record.

MS. SCANTLAND: Karen Scantland.

CHAIRMAN KONYK: The staff has recommended four conditions, do you understand and agree with those conditions?

MS. SCANTLAND: Yes.

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

MR. SEAMAN: There are one response and it's for approval.

CHAIRMAN KONYK: Any board member feels this item warrants a full hearing? Seeing none, this item will remain under consent.

You can sit down and when we vote on the consent, then you'll get a letter and you can leave, okay.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

The subject lot is rectangular with a 66' width and 165' depth. The lot supports a 1086 sq/ft SFD, and existing 560 sp/ft garage and an existing 270 sq/ft gazebo. The lot also supports a 6'X 7' shed located on the northeast corner of the lot which the applicant agrees to remove. There is an existing chain link fence along the northeast, and north property lines, when supplemented with a solid native hedge as recommended by staff will create a privacy buffer to reduce any impact on the adjacent property owners.

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

YES. The applicant informed staff that Code Enforcement Officer was in the neighborhood when they noticed the gazebo within the side interior setback. The applicant was not aware of maximum distance between property lines until they met with Board of

Adjustment Staff to discuss the variance application. The current owner constructed the existing gazebo without obtaining proper building permit. The applicant states in the justification statement that he was unaware of required building permit since the structure is open and not a living area. The owner wishes to correct the setback violations and obtain the necessary permits. Granting the variance will be consistent with the overall goals, objectives and policies of the Comprehensive Plan and the ULDC. With the recommended conditions of approval, the applicant can comply with the general intent of the side interior setback and maximum distance between property lines.

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. This request will not grant the applicant any special privilege. The existing gazebo contains a spa that meets the required side interior setback. The applicant provided staff with a medical letter to support the requested variance. With the proposed condition, the encroachment will be visually screened from the neighbors. Staff recommends that the applicant shall install hedges 48 inch in height and planted 36 inches apart for a distance of 50 feet south and 50 feet west starting from the northeast corner property line where the gazebo is encroaching into the setback.

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. The property owner recently received a notice to correct the illegal constructed gazebo that presently encroaching into the required side interior setback. Literal interpretation of the code would result in costly building design modification and financial hardship on the applicant. As previously mentioned the garage was constructed in 1994 with proper building permit and the applicant was not aware that there was a maximum distance requirement for residential accessory structures between property

lines. The proposed conditions by staff will mitigate the encroachment.

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 mentioned the existing chain link fence along the side interior and rear setback and the proposed condition by staff will create a privacy buffer to the abutting property owner.

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

The applicant is proposing two accessory structures located in the rear yard to exceed the maximum distance between property lines and an existing gazebo to encroach 3.7' into the side interior setback. The intent of the code is to establish minimum separation and privacy to the surrounding property owners. The applicant is requesting minimal variances and with staff recommendation that the applicant shall install hedges 48 inch in height and planted 36 inches apart for a distance of 50 feet south and 50 feet west starting from the northeast corner property where the gazebo is encroaching into the setback, the intent of the code will be satisfied.

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

NO. The variance request will not be injurious or detrimental to the area or the public welfare. The adjacent property owner's privacy will be provided with the proposed conditions by staff to mitigate the encroachment.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The Development Order for this particular variance shall lapse on November 21, 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 21, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment letter and revised survey in order to obtain the final Certificate of Completion for the Gazebo. (DATE:
MONITORING-BLDG PERMIT)
3. By May 21, 2003, the applicant shall install hedges 48 inch in height and planted 36 inches apart for a distance of 50 feet south and 50 feet west starting from the northeast corner property line in order to vest the variance pursuant to BA2002-061. (MONITORING-Landscape)
4. By May 21, 2003, the applicant shall remove the existing 7' X 6' shed shown on the survey in order to vest the variance pursuant to BA2002-061. (MONITORING-Zoning)

CHAIRMAN KONYK: Next item 2002-062, John Higley, approach. Single family dwelling to encroach into the required front setback. Name for the record.

MR. HIGLEY: John Higley.

CHAIRMAN KONYK: What was your last name?

MR. HIGLEY: Higley.

CHAIRMAN KONYK: Okay. The staff has recommended four conditions, do you understand and agree with those?

MR. HIGLEY: Yes, ma'am.

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

MR. SEAMAN: No, there are not.

CHAIRMAN KONYK: Any board member feel this item warrants a full hearing? Seeing none, this item will remain under consent.

MR. HIGLEY: 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.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 applicable to the subject property. The lot is an irregular shape, with one side property line dimension of 80 feet, and another side property line dimension of 100 feet. In addition the required setback is measured from the front property line, which is 20 feet beyond the edge of the roadway (Harbor Lane), for an actual setback for the proposed residence from the roadway of 35 feet.

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

NO. The applicant has considered several design options for the proposed residence on this waterfront lot. The subject lot has irregular property lines that the applicant is attempting to conform to. In addition, the front property line is 20 feet beyond the edge of the roadway, for an actual setback to the proposed residence from the roadway of 35 feet.

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 intent of the ULDC front setback requirement is to insure uniformity along the street, provide a safe distance from the roadway, and to insure privacy for the dwelling unit. The applicant will meet the intent of the front setback requirement if the proposed variance is granted.

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 applicant would like to construct a new SFD on the lot to take advantage of the waterfront location and changing market demands for larger more modern homes. The applicant will meet

all other ULDC requirements.

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 applicant has considered several design options just for the proposed residence on this waterfront lot. The subject lot has irregular property lines that the applicant is attempting to conform to. In addition, the front property line is 20 feet beyond the edge of the roadway, for an actual setback to the proposed residence from the roadway of 35 feet. The proposed design also provides the applicant with a rear yard that can support a swimming pool without variances.

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 will be consistent with the Plan and the ULDC. The intent of the ULDC front setback requirement is to insure uniformity along the street, provide a safe distance from the roadway, and to insure privacy for the dwelling unit. The applicant will meet the intent of the front setback requirement if the proposed variance is granted.

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 applicant has designed the residence to meet the required side interior setbacks, in order to limit the affect on surrounding residences. IN addition, the front property line is 20 feet beyond the edge of the roadway, for an actual setback to the proposed residence from the roadway of 35 feet. The proposed residence will have a three car garage, and driveway space for several vehicles, eliminating the need for on-street parking.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on November 21, 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 April 21, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment 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 August 21, 2003, the applicant shall obtain a building permit for the proposed single family residence in order to vest the variance approved pursuant to BA 2002-062. (DATE: MONITORING-BLDG PERMIT)
4. The variance request is only for the front setback of the proposed single family residence. The proposed single family residence and any accessory improvements shall meet all other ULDC requirements. (ONGOING)

CHAIRMAN KONYK: Next item on consent is 2002-072, James Slocum, agent, to allow a proposed pool and screen roof enclosure to encroach into the required rear setback. Name for the record.

MR. SLOCUM: James Slocum.

CHAIRMAN KONYK: The staff has recommended conditions -- three conditions, do you understand and agree with those?

MR. SLOCUM: Yes, I do.

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

MR. SEAMAN: One letter in approval.

CHAIRMAN KONYK: Any board member feel this item warrants a full hearing? Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

Approval with conditions, based upon the following application of the standards enumerated in Article 5,

Section 5.7.E. of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING 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 subject supports an existing residence that was constructed using conforming RS setbacks. The existing residence has a rear setback of 21.72 feet. The required rear setback of 10.5 feet to the water's edge would require the applicant to construct a narrow pool immediately adjacent to the existing residence. The applicant is also seeking variance relief to allow a proposed screen enclosure to be constructed over the proposed pool. The rear property line borders the side yard of an irregular shaped parcel. The adjacent parcel is screened by a 6 foot privacy fence.

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

NO. The applicant has attempted to minimize the variance request by proposing to locate the pool and
and
screen enclosure as close to the existing house as possible. The proposed pool and screen enclosure are a typical accessory use to a single family residence. The proposed pool and screen enclosure location will meet the intent of the ULDC to preserve privacy between residences.

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 variances will not confer a special privilege to the applicant. A swimming pool is a typical amenity of a South Florida home and the surrounding area. The location of the existing residence limits alternative design options for the applicant. The applicant has attempted to meet the

ULDC setback requirements for pools and screen enclosures by moving the pool close to the house.

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 setback. The size of the rear yard would significantly impact the size of the proposed pool. Denial of the requested variance would require the applicant to construct a pool 10 feet wide immediately adjacent to the existing single family residence. The location would limit pedestrian circulation around the proposed pool and rear yard.

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 variance is the minimum variance required to make reasonable use of the subject lot. The applicant is proposing to comply with the side interior setbacks for swimming pools, but would like to encroach the rear setback to construct a typical size pool (14' x 30'). The applicant has attempted to meet the setback requirements by moving the pool and screen enclosure as close as possible to the existing residence.

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 will be consistent with the ULDC provisions related to swimming pools and screen enclosures. The pool and screen enclosure setback requirement is intended to maintain a safe separation from surrounding structures, and to insure that pedestrian circulation and maintenance is retained on site. The proposed pool and screen enclosure location will meet the intent of the ULDC requirements. The rear property line borders the side yard of an irregular shaped parcel. The adjacent parcel is

screened by a 6 foot privacy fence.

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

NO. Granting the request variance will not be injurious to the surrounding area. The proposed pool and screen enclosure complies with ULDC setback requirements. The rear property line borders the side yard on an irregular shaped parcel. The adjacent parcel is screened by a 6 foot privacy fence.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on November 21, 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 21, 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 presented to the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
3. By May 21, 2003, the applicant shall obtain a building permit for the proposed swimming pool in order to vest the variance approved pursuant to BA 2002-072. (DATE: MONITORING-BLDG PERMIT)

CHAIRMAN KONYK: Next item is 2002-073, Bloom, Ballen and Freeling, to allow a proposed addition to encroach into the required rear setback. The agent present?

MS. SASILEO: The owner.

CHAIRMAN KONYK: Madeline and Joseph --

MR. SASILEO: Sasileo.

CHAIRMAN KONYK: Sasileo. Staff has recommended -- your names for the record for her.

MS. SASILEO: Madeline Sasileo.

MR. SASILEO: And Joseph Sasileo.

CHAIRMAN KONYK: Staff has recommended three conditions, do you understand and agree with those?

MS. SASILEO: Yes.

MR. SASILEO: Yes.

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

MR. SEAMAN: 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

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

YES. There are unique circumstances applicable to the subject property. The lot supports a conforming SFD that borders and existing 25' landscape easement and golf course along the rear property line. The existing residence was constructed with a 15.2 foot rear setback, which limits expansion alternatives for the property owners. The owner would like to maximize the use of an existing Florida room and extend the laundry room to the garage. One of the property owner's is disabled and would like the additional space for access and mobility.

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

NO. The applicant purchased the SFD in 1987 in its existing configuration. The applicant previously enclosed the patio in 1992 (B92012297) over an existing slab. The applicant would like to enlarge the existing screen solid roof glass enclosure room addition. The setbacks for a solid roof addition are greater than the existing screen enclosure.

The applicant would like to extend the Florida room and the laundry room located to the area of the SFD. One of the property owner's is disabled and would like the additional space for access and mobility.

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 intent of the ULDC requirement for rear setbacks is to maintain separation between residences, protect adjacent property owners, and insure privacy. The proposed rear setback of 7.5 feet will ensure this is accomplished due to site specific factors. The rear property line borders existing easement and golf course. The nearest residential structure to the rear is located at approximately 300 feet from the subject SFD. The proposed solid roof glass enclosed room addition is a permitted addition to a SFD.

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. The intent of the ULDC requirement for rear setbacks is to maintain separation between residences, protect adjacent property owners, and insure privacy. The proposed rear setback of 7.75 feet will ensure this is accomplished due to site specific factors. The rear property line borders and existing 25' landscape easement and golf course and the nearest residential structure to the rear is located at approximately 300 feet from to subject SFD. The proposed addition will meet the side interior setbacks outlined in the ULDC. The proposed solid roof glass enclosed room addition is a permitted addition to a SFD. One of the property owner's has several surgeries in the past year and would like the additional space for access and mobility.

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

YES. He requested variance is the minimum variance necessary that will allow construction of a room addition. The ULDC allows a 25 percent reduction in the rear setback when a property abuts a minimum of fifty feet of open space. If the applicant utilized the open space setback reduction provision, the required rear setback for the addition would be 11.25 feet. The applicant would like to extend the Florida room and the laundry room located to the rear of the SFD. One of the property owner's is disabled and would like the additional space for access and mobility. The proposed addition will meet Unified Land Development Code (ULDC) for rear setback requirements.

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 insure privacy. The proposed rear setback of 7.5 feet will ensure this is accomplished de to site specific factors. The rear property line borders an existing 25' landscape easement and golf course. There are no residential structures behind the existing SFD. According to the aerial map the proposed addition will meet the side interior setbacks outlined in the ULDC.

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 rear property line borders an existing 25' landscape easement and golf course that will mitigate the requested rear setback variance. There are no residential structures to the rear of the property. The proposed addition will meet Unified Land Development Code (ULDC) rear setback requirements. The proposed rear setback will meet the Codes intent to preserve separation between structures.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The Development Order for this particular variance shall lapse on November 21, 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 21, 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 M) presented to the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
3. By May 21, 2003, the applicant shall obtain a building permit for the proposed solid roof room addition in order to vest the variance approved pursuant to BA 2002-073. (MONITORING-Landscape)

CHAIRMAN KONYK: Next item is 2002-074, Lance Chapman, to allow an existing duplex to encroach into the required rear setback.

Name for the record.

MR. CHAPMAN: Lance Chapman.

CHAIRMAN KONYK: Staff has recommended three conditions, do you understand and agree with those?

MR. CHAPMAN: Yes.

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

MR. SEAMAN: One, an approval.

CHAIRMAN KONYK: Any board member feel this item warrants a full hearing? Seeing none, your item will remain on consent.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING STRUCTURE, THAT

NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. There are unique circumstances applicable to the subject property. The original single family dwelling was illegally converted to a duplex by a previous owner. The conversion was not questioned by the Building Department, and several building permits were issued for roofing, electrical service and plumbing, to the property owner. The current owner purchased the duplex in 1998, unaware of the illegal conversion.

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

NO. The applicant purchased the duplex in 1998, unaware that the structure had been converted to a duplex without building permits. The structure has existed in its current configuration since being constructed in 1955 (Property Appraiser records). Code Enforcement Staff identified the illegal conversion after citing the property owner for an unrelated issue.

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 RM zoning district permits multi family residential structures, and the surrounding area supports multi family development. The existing structure has been utilized as a duplex for several years, and will not intensify the current use of the property.

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 undue hardship to the applicant. The structure has existed in its current location for nearly 50 years. Denial of the variance would require the applicant to convert the duplex into a single family residence, however the structure would still be considered nonconforming

due to the rear setback. The multi family use is typical of the surrounding area.

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

YES. The applicant is attempting to legalize an illegally converted duplex. The requested variance is the minimum variance necessary to allow the existing structure to remain in the current location. The structure has existed in its current location for nearly 50 years. The rear setback variance is mitigated by an existing fence and vegetation.

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

YES. The requested variance is consistent with the Plan and ULDC. The RM zoning district permits multi family residential structures, and the surrounding area supports multi family development. The structure has existed in its current location for nearly 50 years.

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 structure has existed in its current location for nearly 50 years. A duplex is typical of the surrounding area. The rear setback variance is mitigated by an existing fence and vegetation.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on November 21, 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 21, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Survey presented to the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
3. By April 21, 2003, the applicant shall install obtain a building permit for any necessary improvements to the structure. (MONITORING-BLDG PERMIT)

CHAIRMAN KONYK: Next item on consent is 2002-075. Mr. and Mrs. Pedroso, owners, to allow existing addition to encroach into the required side setback.

Your name for the record.

MS. PEDROSO: Miriam Pedroso.

CHAIRMAN KONYK: Okay. Staff has recommended four conditions, do you understand and agree with those?

MS. PEDROSO: Yes.

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

MR. SEAMAN: Yes, there are three in opposition, and the basis is loud noise, loud noise, and then no comment.

CHAIRMAN KONYK: Okay, so it really isn't applicable. Okay. Any board member feel this item warrants a full hearing?

Seeing none, this item will remain on consent, so you may have a seat until the end of the hearing.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING STRUCTURE, THAT

NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT:

YES. The lot is typical to other lots in this residential subdivision. The subject was constructed in 1973. Staff has found that the zoning district for the subject lot was R1 with a side interior setback of 8' or less. In February 2, 1973, the ordinance 73-2 went effective, changing the zoning district of the subject lot from Single-family Dwelling District(R1) to REsidential Multi-family (RM) with a side interior setback of 15 ' or less. The existing addition was constructed at 8.5', therefore, aligns with the existing Duplex. If the variance is granted, surrounding residents will not see a noticeable change to the structure.

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

NO. This is not a self-created situation. The current owner purchased the property in September 6, 2000 in its existing configuration. The applicant is requesting an existing 211 sq/ft Florida room constructed without permit to remain into the side interior setback. The applicant has no other recourse but to request a variance. Approval of the variance will permit the applicant to comply with the current ode requirement for side interior setback in RM zoning district.

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 this variance will not grant special privilege to the applicant. The addition has been there for number of years. The applicant is not proposing to modify the exterior of the structure, therefore, the surrounding residents will not see a noticeable change to the structure.

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. The granting of this variance is the minimum variance that would be a reasonable use of the land. The previous owner illegally constructed the structure. The addition was constructed after the ordinance 73-2 was adopted in February

1973 changing their previous side interior setback for the subject property from 8.5' TO 15'. As stated above, the addition aligns with the existing and the applicant is not proposing any exterior modifications to the building, therefore, there will be no noticeable change to the structure.

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 this request is the minimum variance necessary that would allow a reasonable use of the parcel of the land. The applicant provided a site plan showing that the addition is currently used as Florida room. Staff has visited the site and noticed that the subject addition was currently used for detente area. Staff also noticed an existing shed less than 5' from the west property line. The applicant agrees to relocate the shed 5' from the property line and was informed by staff that relocation of the existing shed will be a zoning condition if the variance is granted. Granting this variance will be consistent with the exiting character of the neighborhood.

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

YES. The granting of this variance will comply with the literal or general intent of the code. The Building permit for the main dwelling was issued in 1973, at that time, the side interior setback requirement was 8.5'. The subject dwelling is setback at 8.5' from the side interior property line, the existing addition constructed without permit is also setback at 8.5' from the side property line. The side interior setback for the existing addition under the current Code is 15', the applicant is proposing 8.5' for a variance of 6.5'. If the previous owner had constructed the existing addition at the same time of the dwelling 1973 no variance would be required. The applicant has made no improvement to the existing duplex and intends to use the addition as a detente area. There will be no any impact to the surrounding area since the structure already exists for numbers of years and aligns with the principal building.

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

NO. If the variance is granted, it will not be injurious or to the surrounding area. The structure has existed for numbers of years and Code Enforcement recently notified the applicant of the encroachment. Granting the variance will therefore not be detrimental to the public welfare.

ENGINEERING COMMENT

No comment

CODE ENFORCEMENT COMMENT

1. The approval of the variance does not extend the October 7, 2001, Code Enforcement compliance/fine start date as set forth in that July 9, 2001, Code Enforcement Special Master Order nor does it extend any possible reduced fines/lien/interest payment due date as may be established/required by a Code Enforcement Special Master modification approval. This approval neither extends nor stops any referral of the subject lien to the Office of Financial Management & Budget (OFMB) for collection. (see zoning conditions #3)

ZONING CONDITIONS

1. The Development Order for this particular variance shall lapse on November 21, 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 May 21, 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 M) presented to the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
3. Any outstanding accumulated Code Enforcement fines/lien reduced fines/lien and interest shall be paid in full prior to issuance of Certificate of Occupancy (CO) (MONITORING-Code Enforcement)
4. By May 21, 2003, the applicant shall relocate the existing shed shown on exhibit M five (5) feet from the side property line (west) in order to obtain a final Certificate of Occupancy for the existing addition.

(DATE: MONITORING-Zoning)

CHAIRMAN KONYK: 2002-077, permit providers, agent for Hayley Ross, to allow an existing addition to encroach into the required side interior setback.

State your name for the record.

MS. ELFERS: Michelle Elfers.

CHAIRMAN KONYK: And you're the current provider?

MS. ELFERS: Yes.

CHAIRMAN KONYK: Staff has recommended three conditions, do you understand and agree?

MS. ELFERS: Completely, yes.

CHAIRMAN KONYK: Any member here to speak on this item? Any letters?

MR. SEAMAN: One in approval.

CHAIRMAN KONYK: Any board member feel this item warrants a full hearing? Seeing none, this item will remain on consent.

MS. ELFERS: 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.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 applicant is requesting this variance to allow an exiting addition to encroach 5.2 feet into the required side interior setback. The applicant recently constructed the existing 397 sq/ft addition. The applicant states in the justification statement that he explored other design options before constructing the pool, however, existing constraints on site make this current location reasonable for the addition. If the variance is granted, the applicant will be able to obtain a final Certificate of Completion for the

addition.

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

NO. The applicant states in the justification statement that they are new residents of this County and also to the State of Florida. The neighbor to the east, where the encroachment occurs provided staff with a letter stating that the applicant acquired their permission before the construction started and they witnessed the construction personally every day. The applicant thought that the structure did not need any type of permit and they are realizing now that a variance process is timely consuming and expensive. The applicant also provided staff with letters from the Home Owner Association of Anchorage Point and property owners to the north, south and west stating that they have no objections if the Board grants the requested variance.

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 special privileges upon the applicant that were denied to other parcels of land in the same subdivision. There is no bathrooms, sinks or any plumbing in the structure, the property owner constructed the addition in order to provide shaded area for children while playing and swimming in the pool. The addition only encroaches into the side interior setback (east).

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 provisions of the ULDC would create an undue hardship on the applicant. The applicant would be required to remove the existing improvements already made at considerable expense and would deprive the applicant of the use of such structure. The applicant acted in good faith by acquiring permission from the neighbor to the east before constructing the addition. The structure was constructed in order to provide a shaded area for the children close to the pool. The applicant

states that he was not aware that a building permit was required.

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

YES. This is the minimum variance necessary to correct the side setback encroachment. The applicant mentioned several justifications for the current location of the structure. Part of the justification was the location of the pool, the current location of the pool plumbing and the fact that the sun exposure is more constant on the south side of the DFD. The encroachment occurs along the east property line and there will be no encroachment into the front and rear setback.

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

YES. The request will meet the general intent of the Code. The Code requires 7.5 foot side interior setback, the applicant is proposing 2.3 foot setback between the addition to the property line. The intent of side setback is to establish a minimum separation between structures on adjacent properties. As stated previously, the property owner to the east has no objection if the variance is granted and in addition, there is an existing Hibiscus hedge along the east side of the structure to mitigate the encroachment.

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

NO. Granting this variance request will not be injurious or to the general area. There is an existing Hibiscus hedge along the east property line to mitigate the encroachment related to the variance request. In addition, several property owners surrounding the subject lot provided letters to support the variance request.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on November 21, 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 21, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment letter and revised survey in order to obtain the final Certificate of Completion for the addition. (DATE: MONITORING-BLDG PERMIT)
3. By May 21, 2003, the applicant shall obtain a building permit for the addition in order to vest the variance approved pursuant to BA 2002-077. (DATE: MONITORING-BLDG PERMIT)

CHAIRMAN KONYK: 2002-078, Executive Services Unlimited, agent, for Norman Chandwick, to allow a proposed addition to encroach into the required side interior setback.

Name for the record.

MR. KARNES: Steven Karnes.

CHAIRMAN KONYK: Staff has recommended three conditions, do you understand?

MR. KARNES: I understand.

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

MR. SEAMAN: There was one and it's an approval.

CHAIRMAN KONYK: Any board member feel this item warrants a full hearing. Seeing none, this item will remain on consent.

STAFF RECOMMENDATIONS

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

ANALYSIS OF ARTICLE 5, SECTION 5.7.E VARIANCE STANDARDS

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

YES. There are unique circumstances applicable to the subject property. The applicant is seeking a variance to correct an existing construction and inspection mistake. A support column and portion of a solid roof were constructed in the side interior setback when the original house was built in 1988. The property line is angled toward the SFD, which reduces the side yard, rather than running parallel to the SFD as typical. The proposed enclosure will utilize the existing support column and solid roof, and conform with all other required setbacks.

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

NO. The property owner purchased the subject property in the existing configuration. The applicant was issued a building permit to convert the existing screen enclosure into a room addition. The setbacks are the same, however a site inspection revealed that the original column was constructed within the side interior setback. The applicant is seeking a variance to correct the construction and inspection mistake.

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 side interior setback requirements are intended to preserve a separation between SFD's. The proposed variance will provide a 5 foot setback from the adjacent properties 6 foot high privacy wall. The irregular property lines result in a variance providing a reasonable solution to the previous construction and inspection error.

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 result in an undue hardship. The applicant has the right to enclose an existing solid roof screen enclosure if applicable zoning requirements are met. The applicant is attempting to correct an existing construction error that had gone unnoticed for 14 years. The proposed room enclosure will utilize an existing solid roof and will not expand the footprint of the structure.

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 variance is the minimum variance necessary to utilize an existing solid roof screen enclosure as a room addition. The applicant is attempting to correct an existing construction error that had gone unnoticed for 14 years. The proposed room enclosure will utilize an existing solid roof and will not expand the footprint of the structure. The proposed variance will provide a 5 foot setback from the adjacent properties 6 foot high privacy wall.

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 will be consistent with the ULDC setback requirements. The side interior setback requirements are intended to preserve a separation between SFD's. The proposed variance will provide a 5 foot setback from the adjacent properties 6 foot high privacy wall. The irregular property lines result in a variance providing a reasonable solution to the previous construction and inspection error.

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 or to adjacent properties. The applicant is attempting to correct an existing construction error that had gone unnoticed for 14 years. The proposed room enclosure will utilize an existing solid roof and will not expand the footprint of the structure. The proposed variance will provide a 5 foot setback from the adjacent properties 6 foot

high privacy wall.

ENGINEERING COMMENT

No comment

ZONING CONDITIONS

1. The development order for this particular variance shall lapse on NOVember 21, 2003 on e 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 21, 2003, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Survey presented ot the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
3. By August 21, 2003, the applicant shall obtain a building permit for the proposed solid roof room addition in order to vest the variance approved pursuant to BA 2002-078. (DATE: MONITORING-BLDG PERMIT)

MR. SEAMAN: And if I can interject,
this -- not yours, the next --

CHAIRMAN KONYK: Okay. 2002-079.

MR. SEAMAN: Is a request for a 30-day
postponement to December 13 by right.

CHAIRMAN KONYK: Where did that come from?

MR. SEAMAN: It's my fault.

VICE CHAIRMAN BASEHART: Mr. McGinley's,
maybe he can --

CHAIRMAN KONYK: Well, we probably needed
to say this at the beginning, right, with the
review cards.

MR. SEAMAN: Right. Staff just likes to
see me, in fact, squirming for a while.

CHAIRMAN KONYK: Okay. So you're asking
for a 30-day postponement by right.

VICE CHAIRMAN BASEHART: He got his stuff
in five days ahead.

MR. SEAMAN: You bet.

CHAIRMAN KONYK: 2002-079 is reordered to
the postponed item. Is there a time certain on
that?

MR. SEAMAN: Just December --

CHAIRMAN KONYK: 30 days?

MR. SEAMAN: 30 days.

CHAIRMAN KONYK: 30 days to postpone that, okay.

VICE CHAIRMAN BASEHART: And we don't need to vote on that one, right?

CHAIRMAN KONYK: Not if he got it by right. All right, so we've gone through the consent and I'm going to reiterate that 2002-079 has been postponed for 30 days.

Item number 2002-061, 2002-062, 2002-072, 2002-073, 2002-074, 2002-075, 2002-077, 2002-078 remain on the consent agenda.

Is someone prepared to make a motion.

VICE CHAIRMAN BASEHART: Madam Chairman, I'll make a motion that you just read into the record be approved on consent with the understanding that the staff report will serve as the record of the hearing and with the understanding that everyone has accepted the conditions recommended by staff.

CHAIRMAN KONYK: Okay, Mr. Basehart has made a motion, do we have a second.

MS. CARDONE: Second.

CHAIRMAN KONYK: Second by Ms. Cardone. All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Opposed? Motion carries unanimously.

All of you have received your variances, you'll get a letter and you can leave.

Okay, are we ready to continue. First item on the regular agenda 2002-064, Land Design South, agent, to allow proposed single family dwellings encroach into the required front, side and rear setbacks.

We'll introduce -- staff will introduce the item.

Do you have any -- Alan, do you have any -- you had mentioned you had some changes in the conditions, I forgot to ask you. Did you?

MR. SEAMAN: Well, it's this one.

CHAIRMAN KONYK: It's this one, okay. Well, that we'll get to during the hearing then, okay. So do you want to introduce it.

MR. KOLB: Okay. The applicant is requesting seven setback variances for two proposed residences on Palmwood Road. These

are two lots that are on the Intracoastal waterway. The five -- actually, six of the seven, staff is supporting the variances. We have an e-mail dated November 20th where the applicant has modified their request on Lot 1, the rear setback to a 25-foot rear setback rather than the former proposed 15-foot rear setback.

And staff feels that that will meet the intent of the comp plan and the code as far as consistent with the RT setback which is what they would be allowed to rezone to -- it might be easier to follow along on Page --

CHAIRMAN KONYK: Wait a minute, all you're supposed to do right now is introduce the item.

MR. KOLB: Well, that's a modification.

CHAIRMAN KONYK: Don't give me your criteria, what your justification is, just introduce it.

MR. KOLB: There is one modification on the introduction, is that it would be the rear setback, and Lot 1 has been modified as of November 20th to 25 feet rather than the 15 feet.

CHAIRMAN KONYK: Okay. Now we'll hear from the applicant.

MS. MORTON: Thank you. Jennifer Morton with Land Design South. I'm here today representing Steve Zeiger and his variance request.

The property is located north of Donald Ross Road and south of Frederick Small Road in the northern part of the county. It's east of Palmwood Road and has access on the Intracoastal waterway.

I'm going to pass around some photographs of the subject property. It's currently undeveloped and maintained in a -- as a grassy manicured area. His children play on these two undeveloped lots and there's some play equipment located there.

CHAIRMAN KONYK: Let's have a motion to accept the pictures into the record.

MS. CARDONE: Motion to accept these pictures into the record.

VICE CHAIRMAN BASEHART: Second.

CHAIRMAN KONYK: Motion by Ms. Cardone, second by Mr. Basehart. All those in favor? Motion carries unanimously.

MS. MORTON: And then secondly, this area

of the county, it is located on the Intracoastal waterway and there are several homes that were constructed in the fifties, sixties and seventies, they're smaller lots. And people nowadays are purchasing these lots, knocking down the smaller homes and rebuilding them with large estate lots. That seems to be the trend in the area.

Earlier today you all approved two variances for properties in this area: One to increase the building coverage, and another to reduce the front setback. So the trend is to do larger estate lots to maximize access on the Intracoastal waterway.

I do have some photographs of some of the large estate homes that are currently being constructed or have been constructed in the area just to show that what we're proposing is consistent with what's being developed along Palmwood Road. And I'd like to submit those for the record.

CHAIRMAN KONYK: Motion -- do you have anything else you're going to give us?

MS. MORTON: No, those are the only two.

CHAIRMAN KONYK: Can we have a motion to accept the pictures.

MS. CARDONE: So move.

VICE CHAIRMAN BASEHART: Second.

CHAIRMAN KONYK: Motion by Ms. Cardone, second by Mr. Basehart. All those in favor?

BOARD: Aye.

CHAIRMAN KONYK: Motion carries unanimously.

MS. MORTON: Secondly -- secondly, this is just a portion of the Land Use map for this area of Palm Beach County showing between Frederick Small Road and Donald Ross Road. And you can see from this Land Use map that all the property on the east side of Palmwood Road is Land Used LR2.

What isn't consistent for this area is the zoning designation for properties along Palmwood Road. You can see from this graphic we've located our site in red. Our property is zoned AR and the property just to the north of this parcel is zoned RS.

Also you have additional RS zoning to the south, couple of hundred feet to the south of us, within that area. So it's scattered with AR zoning and RS zoning.

All along that corridor they have -- we're all consistent with our Land Use but we're not all consistent with our zoning designations.

And the purpose of identifying the property to the north as having RS zoning is the fact that the RS zoning category has significantly smaller setbacks. RS allows 7.5 feet on side setbacks and a 15-foot rear setback.

When we originally submitted our variance request, we were asking for similar setback reductions. We were asking for 7.5 foot side and a 15-foot rear.

We have since modified our request to request a 25-foot rear setback. We've discussed that with staff and staff says to put that 25-foot rear setback. So the only setback in question is our side setback on our northern property line.

What this graphic shows that's up on the board right now is a portion of the northern lot, that portion of the lot that abuts the Intracoastal waterway located right here, and that is a legal lot of record.

This graphic shows a home that was constructed on that property. This home had a 7.4 foot side setback and a 5-foot rear setback.

Our client acquired this property and demolished this house and has created more of a ball field, the photographs that I passed through. So at one time there was a house that was constructed with a 7.4 foot setback and a 5-foot rear setback. This is the proposed site plan for both lots.

As staff mentioned, we have Lot Number 1, which is the northern lot. And what that is is that's actually the combination of two lots: A lot here, which I think is in your staff report, one lot here, and then a second lot there. We're proposing to combine those lots and form one lot, and then we have a second lot down here.

We're consistent with staff on Lot Number 1, they're recommending approval for the variances that we've requested there. I'm sorry, that's Lot Number 2.

Lot Number 1, the only area of inconsistency is our side setback along our northern property line on here.

Originally we requested 7.5 feet. We've modified that request last month to indicate 10 feet. And staff -- and staff is proposing 15 feet which is consistent with the setback for reduction.

We believe that we have significant justification for our reduction in our site setback. The first one is based on the narrowness of the parcel. Our parcel is less than 100 feet wide at the most narrow point, and the only -- it does widen out as you get towards the Intracoastal waterway, but as it's now, it's 100 feet wide, so you have to work within those parameters of the lot width. It's actually more narrow than the lot to the north by about 6 feet.

The variances have been granted along this corridor. There was a variance -- two variances granted today: One to increase building coverage and one for a property that's zoned RS that already has 7.5 foot side setbacks to encroach into their front setback by 10 feet. So they went from 25 to 10 to 15.

So the trend is to provide more buildable area for larger estate homes on the Intracoastal Waterway.

And also the fact that our property because there's a line along our northern property line, if you're north of that line you have 7.5 foot side setbacks. If you're south of that line, you have setbacks that fall within the AR zoning category. It seems like that's a line in the sand.

If you look at those two lots, there's no difference between those two lots. They both have access on the Intracoastal Waterway, they're both proposed to be developed with large estate lots, and they're extremely consistent other than in character and proposed development other than a line that was somehow established. And AR is not consistent with this area.

Finally, the property owner in the north is able to utilize 7.5 foot side setbacks, which is what -- we're asking for 10, so we're actually better than that. And there was a house that was constructed on this property with a 7.4 foot setback.

So basically that -- this is the proposed site plan for the property. This is the

proposed site plan for the property to the north noting that they have 7.5 foot side setbacks on their proposed estate lot. We are happy that they are able to utilize this 7.5 foot side setback, I think it helps with the design of the lot, and we're simply asking for a similar -- similar privilege on our property.

And I was going to go over a modification to condition of approval, but I think Damon had a couple of changes to our conditions so I'll let him go over that.

And that concludes my presentation. If you have any questions, I'll be glad to answer them.

VICE CHAIRMAN BASEHART: I have a question. Jennifer, the property is zoned AR, but it's designated LR2.

MS. MORTON: Right.

VICE CHAIRMAN BASEHART: Maybe I missed it if you said anything about it. Why aren't you rezoning the property to, let's say, RT which you could do under the AR zoning -- under the --

MS. MORTON: LRT zone.

VICE CHAIRMAN BASEHART: LRT.

MS. MORTON: Right. Well, the RT zoning district would still require a 15-foot side setback so that doesn't really help us on our side setback or our width, which is what we're looking for we. And that's what staff -- that's kind of where we're at, a disagreement with staff.

Staff did mention that, I mean we had talked about that, but it still doesn't get us where we want to be.

VICE CHAIRMAN BASEHART: It would reduce some of the other variances, right?

MS. MORTON: Yes. Like the variance on the rear, we wouldn't need that after all. But that's -- you know what kind of process that is, to do a rezoning versus a variance. And other variances have been granted all along this corridor.

VICE CHAIRMAN BASEHART: Yeah, I understand. I just know that in a couple of instances I've had projects, even residential ones, that were proposed in zoning categories that were less intensive than what the comp plan would allow.

In fact, I had one up on the river and I

was -- my client was required -- they wouldn't let him develop under his current zoning, but they made him zone to a higher designation because they said he was inconsistent with the comp plan.

You all aren't doing that anymore, I hope?

MR. SEAMAN: We've mentioned that but we also have the right for people to come in and make their variance request. So yes, we --

VICE CHAIRMAN BASEHART: Well, my question is, and, I mean, I hope you don't do it to these people. But when they go for a building permit, are they going to be then told you've got to rezone the land before you can subdivide this property?

MR. SEAMAN: I don't know the answer to that, Bob.

VICE CHAIRMAN BASEHART: Okay.

MR. SEAMAN: It depends on the case-by-case basis.

MR. MATHIS: How many square feet is the house that you're proposing to put on?

MS. MORTON: On Lot Number 1, the northern lot, is 9,100 square feet, and that includes the carriage houses.

CHAIRMAN KONYK: Okay. Why don't we go ahead and hear what staff has to say and then if people have more questions after that.

MR. KOLB: As the applicant mentioned, staff has met several times with the applicant regarding the variance. They've modified the request from setbacks that were more consistent with RS, single family residential, to somewhere in between RS and RT.

Staff's recommendation from the beginning is to be consistent with the RT because that is consistent with the land use and a rezoning decision should be consistent with the comprehensive plan.

The reason that staff is recommending approval for the setbacks along Lot 2, the side setback, it's because of the existing site conditions, we had the advantage to look into the existing site. And the purpose of larger setback on estate homes is to maintain a separation between them.

As the site plan indicates, both the south lot, Lot 2, really will not interfere with either the adjacent lots to the north or to the south because of the way the site plan is

developed.

The reason staff is recommending denial on the north side interior setback on Lot 1 is because, as you can see from the site plan, it's pretty much the majority of the structure will encroach into the setback. It's 130 feet of the setback, it's not the minimum variance necessary.

These are two proposed residences where the applicant can redesign and meet the intent or move the house around as it's based on -- the square footage is actually shown on the site plan on Page 87.

Any reduction to meet either the percentage setbacks, which they're allowed by code, today they can apply for a building permit meeting the percentage setback which would give them a 15-foot side setback.

Or they could rezone to RT which would also give them a 15-foot side setback.

So in staff's opinion, that 15-foot side setback is there for a reason, it's because it's maintained the estate character of the area which is what has developed along Palmwood Road, and that the larger the home, the larger the setback.

Regarding the rear setback, and they're both mitigated by the existing Intracoastal Waterway, neither of them will affect a residence to the rear.

But it is staff's opinion that the -- regardless of what the zoning is to the north, the AR setback runs for approximately a mile down south to Palmwood Road and all the other surrounding residences use the percentage setback, which is what the applicant would be allowed to utilize.

So denial of the variance really does not deny the applicant's right to build on the lot, it just forces them to redesign the proposed residence to meet a 15-foot side setback, a 5 foot difference from what they're proposing.

CHAIRMAN KONYK: I have no questions. Does anybody have any questions? Is there any public to speak on this?

Your name for the record.

MR. GREEN: Good morning, I'm Michael Green, attorney for Mr. John Danzy, trustee, who is the owner of the lot at 14958 Palmwood Road, which is a lot immediately to the north

of the other property.

We're here to oppose the granting of the variance for several reasons: One, we just learned of the change from the 15 feet to the 25-foot setback, but that doesn't change our opinion that the variance is improper for several reasons.

One, the variance would still be 75 feet out of 100-foot setback, that's a pretty significant rear yard variance to vary by 75 percent, a fairly significant item like that.

Second item is in the staff's own report published prior to yesterday and available today, they found that as to that rear setback there were no special conditions that justified the variance.

I don't think a change from 15 feet to 25 feet changes the finding by staff that there are no special conditions which is a requirement of granting a variance.

They also found that the special circumstances for the setbacks were the result of actions of the applicant. I don't think that changed by a change from 15 feet to 25 feet in granting the variance.

Lastly, they also found that the granting of the rear setback, or not granting the rear setback, would not deprive the applicants of rights enjoyed by other parcels, another requirement granting a variance under the county Land Use regulations.

So as to the rear setback, the applicant has failed to meet three of the necessary requirements for obtaining a variance as to the rear setback line.

Additionally, the staff did recommend that the appropriate means of dealing with this was a rezoning, not a variance, a variance of this magnitude would set extremely bad precedent.

The second reasons deal with our lot. Our property has a house that is now in for a permit, it's been in since August, it was designed in reliance on the neighboring zoning.

And I know Ms. Morton talked about a line in the sand, but zoning districts always have a line in the sand, the zoning districts stop someplace and stop somewhere else.

And we have a right to rely on the zoning that exists until it's rezoned and expect that

a significant variance of 75 feet out of 100 would be granted blocking our view to the south of the Intracoastal.

The applicant has a different situation, their two lots have a base, and that extends into the middle of them, you can see on Land Design South's drawing, which protects their view to the south.

However, our view is not protected, and a house that was only sitting 25 feet back from the property line would block the views to the south.

And we have plans if the panel would like to see of how our house is designed.

CHAIRMAN KONYK: I have a question.

MR. GREEN: Yes.

CHAIRMAN KONYK: Of the seven setback variances that they're requesting, are you objecting to all seven or are you just objecting to the rear?

MR. GREEN: We're only objecting to the rear setback.

CHAIRMAN KONYK: Okay. If you'd like to show us your plans.

VICE CHAIRMAN BASEHART: Your client's property is zoned RS?

MR. GREEN: AR?

SPEAKERS: RS.

VICE CHAIRMAN BASEHART: Okay, it's zoned RS, which has, I think, what is it, a 15-foot rear setback required?

MR. GREEN: That's correct.

VICE CHAIRMAN BASEHART: Is he proposing to put his home 15 feet from the rear property line?

MR. GREEN: I'll -- architect will show his plans and you can see where it's set up. There's also a coastal construction control line there so no structures can be built as close to the property lines otherwise existing, at least in our lot.

CHAIRMAN KONYK: -- Mr. Green. Maybe Jennifer will hold it for you.

VICE CHAIRMAN BASEHART: Maybe you can hold it up.

MS. MORTON: That board is the same plan.

CHAIRMAN KONYK: Do you have his plan there, Jennifer, is that what you have?

VICE CHAIRMAN BASEHART: Yeah, it's backwards, you've got to turn it around.

You've got the Intracoastal on the left side there. The one on the board is backwards. You've got north on the bottom there, just turn it around.

CHAIRMAN KONYK: Flip it over. There you go, now we're the same way.

VICE CHAIRMAN BASEHART: That's okay, I can't read it anyway.

CHAIRMAN KONYK: Do you think we can see that from here?

MR. GREEN: Our house is set further back, the views are all out, scheduled to the south and to the east. If the house is brought back all the way to here with a 25-foot setback on theirs, it'll totally block our view.

CHAIRMAN KONYK: How many feet is your structure set back from in the rear?

VICE CHAIRMAN BASEHART: Looks like a ton.

MR. BONO: It's 72 feet.

CHAIRMAN KONYK: Even though you have a --

MR. BONO: From the bulk head. Now, if you can see the second poster, everything is orientated towards our southeast.

When we did our due diligence, we studied, we came in and met with Ron and did our code studies, and we're not asking for anything, we've got a lot of money invested in this property.

THE COURT REPORTER: Could you identify yourself, please.

MR. BONO: Rome Bono, I'm the architect for the project.

MR. GREEN: We're also going to object to the north side setback easement because --

CHAIRMAN KONYK: Okay, so you're objecting to the north side setback as well --

MR. GREEN: And the rear.

CHAIRMAN KONYK: -- the variance of 5 feet?

MR. GREEN: Right, and the rear.

MS. PETRICK: Chairman, I don't know if you want to have the architect sworn in.

CHAIRMAN KONYK: We really should have everybody sworn in that's speaking, and we didn't swear Jennifer in either. But I don't know how to back her up and make her -- will you swear that everything you already said was true?

MS. MORTON: Yes.

CHAIRMAN KONYK: So everybody that's

speaking or has spoken will attest that they -- we'll have our reporter swear you in.

Everyone that's already spoken or is going to speak on this item, please stand and raise your right hand.

THEREUPON,

THE SPEAKERS,

being by the undersigned Notary Public first duly sworn, testified as follows

CHAIRMAN KONYK: Okay. All right, now that we've done that, you're the architect and she's got your name, okay.

So your setback is how many feet?

MR. BONO: We're 15-foot rear setback.

CHAIRMAN KONYK: And you actually placed the property how far back?

MR. BONO: It's 72 feet. There's a coastal easement line that -- coastal construction line that we can't violate, so we're set back to 15 feet.

MR. GREEN: And because the property slants in, it goes to construction control line, basically goes like this, it makes the two houses fairly equally distant at a 25-foot setback on the applicant's property.

CHAIRMAN KONYK: Okay, Jennifer, does your property have that same thing?

MS. MORTON: Yes. Actually, his setback is from his bulkhead, from the bulkhead. Our setback is--

CHAIRMAN KONYK: What's that other thing that he said he couldn't --

MS. MORTON: Coastal construction line. And we cannot encroach. We're going to -- our house, which is right here, which is right where the coastal construction line is.

CHAIRMAN KONYK: Okay, so it runs further back on the rear of that property then?

MS. MORTON: No, his property line comes all the way out to here, he owns to the bulkhead --

CHAIRMAN KONYK: Oh, okay.

MS. MORTON: -- and we don't.

CHAIRMAN KONYK: Okay.

MS. MORTON: So he owns right here where our bulkhead, you know, comes down here, our property line is back here. So our setback -- this is his coastal construction line so our

house cannot encroach into that, we'll be right up next to it with our 25-foot setback. But we won't be in front of him and he won't be in front of us, we're all at the same --

VICE CHAIRMAN BASEHART: So what you're saying is, with the variance that you've requested, you will be the same distance from the actual water as he is?

MS. MORTON: Right, exactly. He actually owns all the way out to the bulkhead so he owns all this area. Where our client, you'll see, just owns to right here and does not own all that --

CHAIRMAN KONYK: Who owns that?

MS. MORTON: Inland Navigational Finders and One Navigational Authority.

CHAIRMAN KONYK: How many feet is that, the part that you don't own?

MS. MORTON: Right. Our scale is -- I think it's 55 feet.

CHAIRMAN KONYK: So how come --

MS. MORTON: So -- yeah, 55 feet all along.

MR. MISROCH: What's on that? What's on that land, that 55 feet?

MS. MORTON: Nothing's on there.

CHAIRMAN KONYK: It's owned by --

MR. MISROCH: Who maintains it, you maintain it?

MS. MORTON: We maintain it, our client does.

MR. MISROCH: So it's like part of the yard.

MS. MORTON: Yeah. You just can't build or plan or you couldn't put your pool there. We can't -- whereas you can see, he actually can -- since he owns all the way out to here, you know, that's part of his project, his plan, where we are -- we stop right here so our pool will go in here in this area and be set back.

MR. GREEN: I want to make a comment picking up on something that Jennifer said, which was that you can't plant in that area, but Mr. Zeiger has planted in that area further blocking our view with some fairly large Areca palms which have further exacerbated the problem.

Secondly though, and I don't disagree with Jennifer that our houses would line up, our house was designed specifically to take

advantage of a flat view across the back of that property relying on the existing zoning.

So if zoning was such that permitted Mr. Zeiger to build a house where it was, obviously we have no argument, but zoning isn't set to permit that. And the variance, it being a judicial procedure, has not been met, the hardship rule and the other test for a variance has not been met by the applicant.

VICE CHAIRMAN BASEHART: Let me ask you a hypothetical question. If Jennifer's client applied to rezone the property so that the rear setback could be reduced, would your client object to that?

MR. GREEN: We will be here objecting to that too, yes.

VICE CHAIRMAN BASEHART: So bottom line is, you just don't want any structures in that area.

MR. GREEN: Right. But the law is clear as to what is required for a variance to be granted. This is a judicial proceeding, not a legislative proceeding, we can appear and make our statements in the rezoning process. It is not appropriate to grant a 75-foot variance of a 100 foot setback without the requisite showing being made.

CHAIRMAN KONYK: Okay, I have a question. I'm not familiar with exact what the person is or the entity that owns that piece of property, but I know that when we have any person in the community and their property abuts an open space or, you know, something, a buffer, they're allowed to consider that when they consider how the impact that their variance is -- what the impact of their variance is going to be. Is there any way that that 55 feet can be considered the same as an open space or a buffer?

MR. SEAMAN: You mean utilizing at 25 percent reduction because they're next to an open space. I don't know that we can use the Intracoastal as --

CHAIRMAN KONYK: Well, it's not the Intracoastal, that's actually -- well, I mean the Intracoastal's there but that's land.

VICE CHAIRMAN BASEHART: -- part of the Intracoastal Waterway is owned by the Florida Inland Navigation Industry.

MR. SEAMAN: Setbacks are to be taken from

the property, the property owner's property line, so we can't really utilize that land.

CHAIRMAN KONYK: You divide the land, but I'm just wondering if that same formula could be applied.

MR. SEAMAN: Not that I know of, no.

MR. GREEN: We've already been in since mid August for permit on this house design. The plans are already complete, it's out for bid. So we've already expended substantial sums on reliance on this existing condition without having the shortcut of variance being granted.

MR. KOLB: Regarding your question, Madam Chairman, is that yes, the applicant could utilize a 25 percent reduction meaning their required AR setback of 100 feet could be reduced to 75 feet by right, and if they were to rezone to RT, the 25 feet could be reduced down to approximately 20 feet.

CHAIRMAN KONYK: Okay.

MS. MORTON: Yes, can I respond to a couple of comments. The first one is that I think I just need to reiterate the fact that we're making the situation better, we're combining two lots.

If they did their due diligence to calculate what our rear setback would be, the property records indicate one lot, which is that lot right there, it's zoned AR. And if you do a calculation on what our rear setback would be, it would be approximately 23 feet.

Because we're combining it with the lot to the west, the rear setback calculation, because our depth exceeds the minimum for AR zoning, it becomes 100 feet.

So, you know, the fact that they relied upon a 100-foot setback is not consistent with what we could do right now under our current situation.

Secondly, if they did rely on the AR zoning, they would know that the AR zoning is not consistent with LR2 land use and that someone always has the right to rezone a property to RT, and therefore getting a 25-foot rear setback. So --

CHAIRMAN KONYK: So you mean that somebody couldn't object?

MS. MORTON: Right.

CHAIRMAN KONYK: So if you were to rezone

it, no one could object to that rezoning --

MS. MORTON: Right.

CHAIRMAN KONYK: Because you're --

VICE CHAIRMAN BASEHART: Anybody can object. I mean, I hear you complaining about things you don't have a right to complain about all the time.

MS. MORTON: Anyone can object, but the AR is not consistent and we would have the right to rezone to RT, or RTS, is it, I can't remember, there were two categories.

CHAIRMAN KONYK: You're saying that nobody can prevent you from doing it?

MS. MORTON: Exactly.

CHAIRMAN KONYK: Anybody can object.

MS. MORTON: Right. And our setback again, when he was taking his setback he was taking it from the bulkhead, our setback is much further in.

And finally, there are many areas both north and south of here that are zoned RS that have the 7.5-foot side and the 25-foot rear.

And we want to be good neighbors, I mean we want the same rights that he has on his property to be able to develop our property. And those were -- oh, and finally I indicated that we could not plant in that area, I was mistaken, you just cannot build in that area.

MR. MISROCH: What was the property to the south of there built on, is that an AR?

MS. MORTON: Yes, that is AR.

MR. MISROCH: Is it -- 100-foot setback?

MS. MORTON: No. That actually is the current residence for Mr. Zeiger, right here.

MR. MISROCH: And what's the setback on it right now?

MS. MORTON: I believe he has about a 50-foot setback from the Intracoastal waterway, a 7-foot side setback right here, and about a 13-foot side setback on the other side.

His overall goal is, he lives here right now, but ultimately it's his desire to move up here to this house right there. Right now his kids play out here, you saw the pictures of the field and stuff.

MR. MISROCH: You're using the other example -- another question down there on that last chart, you're using the examples of that chart. You could not maintain that lot without abandoning the right of way -- without keeping

the road right of way, is that not correct?

MS. MORTON: Well, it's not a road right of way, it's an easement that goes from Palmwood to this property.

MR. MISROCH: Without abandoning the easement, excuse me. That property couldn't stand as a separate lot because if you abandoned that right-of-way there's no easement, there's no access to that property, is that not correct?

MS. MORTON: Right, but we would not abandon that easement, right now it's in place.

MR. MISROCH: Okay. But I mean what you're trying to do is combine two lots into one lot, you have to get rid of easement.

MS. MORTON: Yes.

MR. MISROCH: So you really can't use, in my mind, the regulations for how that lot was built, that's archaic once you abandon the easements to the right-of-way. So that doesn't apply to anything.

VICE CHAIRMAN BASEHART: Well, I think what -- I mean, my interpretation is that as an alternative to seeking this variance, the applicant could have built two houses on the property, he's now proposing to build one house leaving the easement and then using the percentage setbacks, could build a new house on the lot that's shown on the easel with only a 22-or 23-foot setback.

MS. MORTON: And hindsight being what it is, I mean obviously he should never have demolished this house until he secured a variance. But, you know, you don't know that, you know. He demolished it, cleared it and created a play area for his kids.

MR. MATHIS: Just seems to me with a 9,100 square foot house, that you could redesign the house and form to the setback requirements without doing any terrible violence to the structure, maybe you can come up with a 8,600-foot house.

MS. MORTON: I think it's just the desire when you're on the water you want to be as close to the water. You want to have, you know -- an estate lot, the lot to the north is just under 9,000 square feet, we're just over 9,000. And the property, as it narrows down, does make it more difficult to design around.

And we're similar with the same character

to the north of us and further to the south of us as well.

MS. CARDONE: Madam Chair, may I make some comments, I don't have a question of the application. Thank you.

I'm going to be supporting staff's recommendation to deny two of these variances.

Earlier today we did not approve two variances, one was postponed we approved one variance which was 10 feet which was very minimal.

Last month we denied an applicant who had proposed several variances because we felt that it was excessive, and I feel the same in this case.

In this area, it's an interesting area, and although this is county-owned land, it borders Juno Beach which is right now debating within its own municipality the mansionization of the area.

And so, you know, as opposed to saying that's the trend, I would say this is a discussion that is going on in that area, and it's a very hardy discussion that's taking place right now. So, you know, I would keep that in mind.

But I do feel that being -- you know, having that side setback really puts a very, very large home right on top of the next property which I really don't feel is proper. I do believe that you need some more space and bottom line is the consistency with this board.

I agree with the staff's recommendations and so that is how I rule.

VICE CHAIRMAN BASEHART: Can I clarify something, I thought your recommendation wasn't for denial but was on the variance for the north interior side setbacks to grant or actually to allow 15 feet instead of 10, right?

But the 15 feet then, isn't a variance, it meets the percentage setbacks?

MR. SEAMAN: If you look at Page 91 there's a chart that might make it easier to understand what we've done. And we write down on the right-hand side that staff recommendations support, deny, support, deny, support, support, support. Fourth line down is the one that was modifying.

VICE CHAIRMAN BASEHART: All right. And that's the rear setback?

MR. SEAMAN: Yeah. Where it says impose, it should not say 15, it should say 25 feet. Of course the variance would not say 85, it would say 75.

VICE CHAIRMAN BASEHART: But you're not supporting the 75-foot variance, is that it?

MR. KOLB: Staff feels that the proposed 25-foot setback is consistent with RT which would meet the criteria consistent with the comp plan.

VICE CHAIRMAN BASEHART: So with the change to a 22 --

MR. SEAMAN: Change to a 25, staff supporting a 25-foot rear setback.

VICE CHAIRMAN BASEHART: So what you're not supporting are the north interior side setback variance?

MR. KOLB: Right. Line number 2 on that chart, Page 91.

CHAIRMAN KONYK: And then if you use that --

MR. KOLB: Perhaps Ms. Cardone can clarify whether or not she would support the 25-foot rear setback.

MS. CARDONE: Right, and I would concur with your previous statement.

CHAIRMAN KONYK: So you will support that?

MS. CARDONE: Right. And I would still not support the north lot side interior setback.

VICE CHAIRMAN BASEHART: But if -- okay, and they don't either. So you're basically --

MS. CARDONE: Supporting staff's recommendation.

VICE CHAIRMAN BASEHART: Okay.

CHAIRMAN KONYK: Okay.

MR. MATHIS: I too would support the staff recommendation, because it seems to me this is a self-created hardship, they can clearly design a house that size in a way that conforms to the requirements.

VICE CHAIRMAN BASEHART: Well, maybe we're ready for a motion.

CHAIRMAN KONYK: Are you ready to make one?

VICE CHAIRMAN BASEHART: Well, I guess we've got to find out if anybody -- there was some people that raised their hand to --

CHAIRMAN KONYK: Does anybody else want to speak? Does anyone else want to speak on this

item?

I do have one more question. Back to that rear setback when we talked about that 55 feet, how would that change what their required setback, could you tell me that again?

MR. KOLB: It allows a 25 percent -- there's permission in the code for a 25 percent open space reduction.

CHAIRMAN KONYK: So right now it requires the rear setback to be 100 feet? And would that --

MR. KOLB: They would be permitted by right to construct a 75-foot rear setback from the property line, not from the bulkhead.

CHAIRMAN KONYK: No, it's not enough but it's just changing it a little bit.

MR. KOLB: But when we grant the variances we don't include the 25 percent setback reduction.

CHAIRMAN KONYK: Right. But they wouldn't have to request as large a variance, is what I'm saying, based on that.

MR. SEAMAN: But also we don't like to use two options to give --

CHAIRMAN KONYK: Okay, I understand because you're considering that it was being rezoned.

MR. SEAMAN: Yeah.

CHAIRMAN KONYK: Okay, all right. Anyone prepared to make a motion on this item?

MS. CARDONE: I would move that for Item 2002-064 --

CHAIRMAN KONYK: Nancy, just let me make a suggestion because I think you're going to move that one of these not be approved. Why don't you separate that one out first and then do the rest of them together, okay.

MS. CARDONE: Okay.

CHAIRMAN KONYK: So the 6.5.G.1 that we -- well, wait a minute it's not -- it's 1.9.A.3.a is the one that you --

MS. CARDONE: Yes. So I move that we move that item out from the other requests.

VICE CHAIRMAN BASEHART: All right, well, wait a minute. You cited a section and that section applies to several of the variances. What you're really saying is you're removing the request for the north interior side setback for Lot Number 1.

MS. CARDONE: Okay.

VICE CHAIRMAN BASEHART: Right?

MS. CARDONE: Yes.

MR. SEAMAN: May I make a suggestion?

CHAIRMAN KONYK: Yes.

MR. SEAMAN: Can we reference the chart on
091 --

CHAIRMAN KONYK: Certainly.

MR. SEAMAN: -- with the modifications.
And then we're going to put that in the
condition of approval that the setbacks meet
the chart as modified for Lot 1 rear setback.
A modified from --

CHAIRMAN KONYK: Okay. But we have to get
the motion so we know exactly what -- I can't
do it by the chart, we have to do it by the
actual -- so, Nancy, why don't you make the
motions for the one you're denying first and
read the whole thing in there.

MS. CARDONE: Okay. I would move
regarding Agenda Item B of A 2002-064 that we
deny Lot 1, north side interior setback, which
is a required 15 feet proposed to be 10 feet.

That we support Lot 1, front setback,
requirement of 100 feet to a proposed 25 feet.
Lot 1, south side interior setback, which is a
required 15 feet to 10 feet. Lot 1, rear
setback, requirement of 100 feet to 25 feet.
Lot 2, front setback, requirement of 68 feet to
25 feet. Lot 2, north side interior setback,
requirement of 15 feet to 10 feet. And Lot 2,
south side interior setback, requirement of 15
feet to 10 feet.

CHAIRMAN KONYK: Do we have a motion?

MR. JACOBS: Second.

CHAIRMAN KONYK: We have a second by
Mr. Jacobs. Do we have any discussion?

MR. MISROCH: Ms. Chairman, as the rookie
here, I still am pretty strongly against the
rear setback even to 25 feet, and I don't know
whether that matters or you separate it or you
vote against the whole thing, I mean I agree
with the motion with that exception.

But how do we vote on that, how do we
handle that? Does it make a difference if the
rest of the Board's in favor of that? It
doesn't make a --

CHAIRMAN KONYK: Well, it would go by the
majority, so if -- yeah, you can explain that
when you vote that your reasons are such.

Okay. We have a motion and a second. All

those in favor?

VICE CHAIRMAN BASEHART: I just would -- I'd just like to explain my -- to support the motion, reason being that I believe that the variances requested, actually the variances as they occur in the motion, with the denial of the one in the reduction of the rear setback, makes the setbacks for the proposed buildings in this application consistent with the established character of the areas in the setbacks that they have and are required to have.

And I believe that the granting of the variances is absolutely consistent with Comprehensive Plan. And I'm looking at this as if the property were zoned RT or RTS because that's the level of zoning that the Comprehensive Plan will support.

I believe if these variances were denied and the applicant applied for RT zoning or RTS, they would be entitled to have that zoning because it would be entirely consistent with the comp plan.

And although this may seem to be somewhat of a shortcut to that end, I believe it's legitimate and that's why I'm supporting the variances.

CHAIRMAN KONYK: Okay. Before we vote, I think the staff has some conditions that they wanted to add based on the motion that was made.

MR. SEAMAN: Yes. On Page 092, the conditions, the first conditions stands as written. The second condition should be changed to -- instead of saying by April 21st to say by November 21st, 2003 or prior to building permit, the applicant shall receive a plat waiver from Land Development to combine the two north lots as shown on the site plan presented to the Board.

Condition number 3 stands as written.

Condition number 4 should be changed, instead of saying by April 21st, we want it to say by September 21st, 2003, the applicant shall provide the Building Division with copy of Board of Adjustment Result Letter and a copy of the revised site plan and present it to the Board.

And the fifth condition should be changed from by October 21st to by November 21st, 2003,

the applicant shall obtain a building permit for one of the proposed residences in order to vest the variance approved pursuant to the BA 22-04.

We're adding condition Number 6 which says, the approved variances are limited to the setbacks as shown on the summary chart below. The summary chart below is what we referenced on Page 091.

VICE CHAIRMAN BASEHART: As modified.

MR. SEAMAN: As modified. And the seventh condition and last condition that we're adding is, a revised site plan shall be submitted by December 21st, 2002 reflecting the Board approved setbacks. The end.

CHAIRMAN KONYK: Okay. Do you understand and agree with those?

MS. MORTON: Yes, we do.

CHAIRMAN KONYK: We have a motion by Ms. Cardone, a second by Mr. Jacobs. All those in favor?

MS. CARDONE: Aye.

MR. MATHIS: Aye.

VICE CHAIRMAN BASEHART: Aye.

MR. CUNNINGHAM: Aye.

CHAIRMAN KONYK: Opposed?

MR. MISROCH: Opposed.

CHAIRMAN KONYK: Okay. So the motion carries 6 to 1.

STAFF RECOMMENDATIONS

Approval in part, 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:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback

- . Lot 2, South side interior setback

The requested variances are justified due to the unique circumstances surrounding the subject site(s). The requested front setback for Lot 1 is for a proposed carriage house which will allow the applicant to create an entrance feature along Palmwood Road. The requested front setback for Lot 2 is required due to an existing boat basin on the rear third of the lot. The South side interior setback on Lot 1 is mitigated by the existing waterway along the property line. The requested side interior setbacks on Lot 2 will not infringe on the adjacent lots (currently under common ownership), based on the proposed layout (Site Plan, Exhibit N).

NO:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

There are no special conditions that justify the requested variances. The required AR setbacks would permit the property owner to construct a residence in character with the surrounding area. The applicant has the option to petition the Board of County Commissioners to rezone the subject property to RT or RTS in accordance with the Comprehensive Plan. The applicant is requesting a rear setback consistent with the RS zoning district, which is not consistent with the Future Land Use designation.

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

NO:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback

- . Lot 2, South side interior setback

The applicant is seeking to utilize reduced setbacks due to existing site conditions. The proposed setbacks are requested on Lot 1 due to the conforming front setback requirement of 100 feet. The side interior setback is requested due to an existing waterway along the south property line. The front setback variance requested on Lot 2 is also due to the existing waterway along the rear of the property. The side interior setback variances are

requested based on the proposed site layout.

YES:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

Special circumstances and conditions are the result of actions of the applicant. The applicant is seeking to utilize RS property development regulations for the rear setback, rather than utilizing the nonconforming percentage setbacks or rezoning to the RT zoning district, which is consistent with the Comprehensive Plan and the lot size. The proposed RS setbacks are not consistent with the character of estate development. There are no special circumstances that justify the side interior setback.

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:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback
- . Lot 2, South side interior setback

Granting the requested variances will not confer a special privilege to the applicant. The requested setbacks are typical of the RT zoning district, which corresponds to the Future Land Use designation of the parcels. The proposed setbacks are justified based on the applicant's site plan and existing site conditions.

YES:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

Granting the requested variance will confer a special privilege to the applicant denied by the Plan. The nonconforming AR lot can utilize the nonconforming percentage setbacks outlined in Article 1 of the ULDC. Surrounding parcels with the AR zoning designation would also utilize the percentage setbacks, if applicable. The applicant also has the right to petition the Board of County Commissioners to rezone the subject property to RT or RTS in accordance with the Comprehensive Plan. The applicant is requesting that the BOFA allow the subject lots to utilize

RS property development regulations for the rear setback, a privilege denied by the Comprehensive Plan. The proposed RS setbacks are not consistent with Code requirements for estate development.

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.

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback
- . Lot 2, South side interior setback

The applicant is requesting variances due to existing site conditions. The applicant is requesting variances that are consistent with the surrounding properties.

NO:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

Literal enforcement of the provisions of this Code would not deprive the applicant of rights enjoyed by other parcels of land in the same zoning district. The surrounding parcels in the AR zoning district would utilize the nonconforming percentage setbacks depending on their respective lot sizes. The nonconforming percentage setbacks would allow the applicant to construct a SFD significantly larger than the surrounding area without receiving variances. Any parcels in the surrounding area with a RS zoning designation went through a petition process to the Board of County Commissioners. The applicant is requesting that the BOFA grant the same privilege to the subject lots, without review by the Board of County Commissioners.

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

YES:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback

- . Lot 2, North side interior setback
- . Lot 2, South side interior setback

The applicant is seeking the minimum variance necessary to allow construction of estate homes that take advantage of the Intracoastal location. The requested variances are necessary due to existing site conditions.

NO:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

The requested variance is not the minimum variance necessary that will allow a reasonable use of the parcel. The proposed SFD utilize the least restrictive residential setbacks, without regard for the Comprehensive Plan or the lot size and estate character of the area. The future land use and lot size is most consistent with RT, a zoning district with a minimum 20000 square foot lot size, minimum dimension of 100 foot width, and 125 foot width, and setbacks of 25 foot front, 15 foot side interior, and 25 foot rear. The intent of the RT zoning district is to provide a transition between a suburban single family residence and estate development. The applicant can petition the Board of County Commissioners for an RT zoning designation. In addition, the permitted nonconforming percentage setbacks provide the applicant with a reasonable land area for the proposed SFD without a need for rezoning or variances.

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

YES:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback
- . Lot 2, South side interior setback

The requested variances will preserve the residential character of the neighborhood. The proposed estate homes will utilize setbacks similar to RT setbacks which are consistent with the Plan and ULDC.

NO:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

The requested variances are not consistent with the Comprehensive Plan and this Code. The lots have a Future Land Use designation of LR2, and a Zoning designation of AR. Based on lot size and the Future Land Use identified in the Comprehensive Plan, the subject parcels are more consistent with the RT Zoning district. The applicant can petition the Board of County Commissioners for an Rt zoning designation. The applicants' justification states that rezoning to RT was considered, however "nothing would be accomplished, " due to the required setbacks in the RT district. The applicant is requesting a special privilege denied by the Comprehensive Plan in order to maximize development on site. In addition, the applicant is relying on the BOFA to effectively rezone the nonconforming AR property to RS, rather than designing the proposed SFD's to comply with ULDC required setbacks.

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

YES:

- . Lot 1, front setback
- . Lot 1, South side interior setback
- . Lot 2, front setback
- . Lot 2, North side interior setback
- . Lot 2, South side interior setback

The requested variances will preserve the residential character of the neighborhood. The proposed estate homes will utilize setbacks similar to RT setbacks which are consistent with the Plan and ULDC. The proposed site layout will minimize the impact on adjacent residences.

NO:

- . Lot 1, North side interior setback
- . Lot 1, rear setback

As indicated in Article 5, Section 5.7.C, "Use of the variance shall be limited to the exact dimensions and configuration of a parcel of land, building or structure indicated in the application." Granting the requested variance would permit the applicant to utilize setbacks that are closer to the RS zoning district than the corresponding Rt or nonconforming AR setbacks. The applicant has submitted a conceptual site plan that

attempts to maximize development on site, instead of working within required ULDC setbacks. The north parcel site plan indicates 130 feet of the proposed structure will encroach into the required side setback. The proposed site plan will create a "blank wall" effect along the property lines, rather than preserving views to the Intracoastal from adjacent properties.

ENGINEERING COMMENT

The Base Building Line for Palmwood Road is hereby confirmed as being fifteen(15) feet east of the east right-of-way line of the eighty (80) foot wide right-of-way as conveyed per Deed Book 1015, Pg.367, said Base Building Line being also fifteen (15) feet easterly from the westerly property line of the subject property.

ZONING CONDITIONS

1. The Development Order for this particular variance shall lapse on NOvember 21, 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 April 21, 2003, the applicant shall receive a plat Waiver from Land Development to combine the two "north" lots as shown on the Site Plan presented to the Board. (DATE: MONITORING-Land Development).
3. By April 21, 2003, the applicant shall abandon the 20 foot road easement and 12 foot utility easement identified on the Site Plan presented to the Board. (MONITORING-Zoning)
4. By April 21, 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 presented to the Board, simultaneously with the building permit application. (DATE: MONITORING-BLDG PERMIT)
5. By October 21, 2003, the applicant shall obtain a building permit for one of the proposed residences in order to vest the variance approved pursuant to BA 2002-064.

(DATE: MONITORING-BLDG PERMIT)

CHAIRMAN KONYK: Next item on the agenda is the attendance record. Everybody was present so I don't think we need to vote on.

VICE CHAIRMAN BASEHART: But I think it might be good, I know that the Board of County Commissioners passed a policy, I think, in the last week with respect to attendance of board members. And maybe the county attorney might want to fill us in on that.

CHAIRMAN KONYK: I would say that I don't think that applies to us, because don't we have an attendance call, it only applies to Board's that don't have attendance policies.

MS. PETRICK: Right. As I mentioned at the last meeting, just for informational purposes, I mentioned at that time Board passed a resolution. That resolution does not impact those forums that are panel pursuant to the Land Development Code, which is what this Board operates under.

So your current attendance policy will stand, and I guess the Board of County Commissioners just wanted everyone to take notice of their hope and encouragement that everyone attended.

CHAIRMAN KONYK: And I don't really think that was designed for boards like ours, it was more designed for these boards where people don't show up at all, ever.

MS. PETRICK: And it impacts our advisory board and things of that nature so -- and, you know, obviously you guys are very committed.

While I have the opportunity I would like to inform the Board that today is my last meeting, I am moving to the litigation department at the county attorney's office, and I'd like to introduce to you Ms. Annie Helfant. She is a new member of our county attorney staff. She will be overseeing the Board of Adjustment from hereon out. She comes to us from Nova University School of Law, and we're very happy to have her.

And I'd just like to thank the Board for the opportunity to serve you and let you know that I will still be with the county. So if you have any questions or if I can be of assistance, please let me know.

CHAIRMAN KONYK: Thank you. Thank you for

all the time you've given us too.

VICE CHAIRMAN BASEHART: And welcome to the Board.

MR. SEAMAN: I need your phone number right away.

CHAIRMAN KONYK: Why, Alan, what do you need right away?

MR. SEAMAN: We worked this out, right?

CHAIRMAN KONYK: Okay, what else, did you want to say anything else?

MR. SEAMAN: No, I think it's all been said.

CHAIRMAN KONYK: Okay, we don't need a motion to adjourn so let's just do that.

(Thereupon, meeting was adjourned.)

C E R T I F I C A T E

THE STATE OF FLORIDA,)
COUNTY OF PALM BEACH.)

I, VANESSA G. KERNICK, Court Reporter,
certify that I was authorized to and did
stenographically report the foregoing proceedings,
that a review of the transcript was requested; and
that the transcript is a true record of my
stenographic notes.

I further certify that I am not a
relative, employee, attorney or counsel of any of
the parties, nor am I a relative or employee of any
of the parties' attorney or counsel connected with
the action, nor am I financially interested in the
action.

In witness whereof, I have hereunto set my
hand and seal this 30th day of November, 2002.

VANESSA G. KERNICK, Court Reporter