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PALM BEACH COUNTY  
BOARD OF ADJUSTMENT

Thursday, May 19, 2005  
9:00 a.m.  
100 South Australian Avenue  
West Palm Beach, Florida

Reporting:  
  
Ed Flaxman  
Court Reporter  
York Stenographic Services, Inc.

ATTENDEES

Chelle Konyk, Chairperson

Robert Basehart, Vice Chairman

Joseph J. Jacobs

Bart Cunningham

Raymond Puzzitiello

William Sadoff

Nancy Cardone

Stanley Misroch

Donald Mathis

Annie Helfant, Assistant County Attorney

Alan Seaman, Senior Site Planner

David Cuffe, Engineer II, Land Development

Miradieu Aubourg, Planner II

Oscar Gamez, Planner I

Juanita James, Zoning Technician

Annette Stabilito, Secretary

Timothy Sanford, Student Para-Professional

Alan Pelayo, Student Para-Professional

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P R O C E E D I N G S

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3           CHAIRPERSON KONYK: I'd like to call to order  
4 the May 19 Board of Adjustment meeting, and we'll start  
5 with the roll call and declaration of quorum.

6           (Whereupon, the roll call was taken.)

7           CHAIRPERSON KONYK: The next item on the agenda  
8 is the opening prayer and the Pledge of Allegiance.  
9 We'll start with the prayer.

10          (Whereupon, the opening prayer was given by Mr.  
11 Cunningham, followed by the Pledge of Allegiance.)

12          CHAIRPERSON KONYK: For those of you who are  
13 not familiar with how this Board conducts its business  
14 the meeting is divided into two parts, the consent and  
15 the regular agenda. Items that are on consent are items  
16 that are recommended for approval by staff, the applicant  
17 agrees with the conditions that may be imposed, there's  
18 no opposition from the public. If your item is on  
19 consent, we will go through the entire consent agenda,  
20 vote on it, and after we've done that you're free to  
21 leave.

22          If there is opposition from the public or the  
23 applicant doesn't agree with the conditions or a Board  
24 member feels the item warrants a full hearing or staff is  
25 recommending denial the item will be on the regular  
26 agenda. Items on the regular agenda will be introduced  
27 by the staff, we'll hear from the applicant. If there's  
28 any public to speak on the item, we'll hear from them.  
29 After the public portion of the hearing is closed, the  
30 Board members will vote on the item.

31          The next item is the approval of the minutes.  
32 Everybody received the minutes. Does anybody have any  
33 corrections or additions?

34          (No response)

35          CHAIRPERSON KONYK: Seeing none, can I have a  
36 motion for approval?

37          VICE CHAIRMAN BASEHART: So moved.

38          CHAIRPERSON KONYK: This is the April meeting.  
39 Mr. Basehart made the motion for approval. Who seconded?  
40 Mr. Sadoff. All those in favor?

41          BOARD MEMBERS: Aye.

42          CHAIRPERSON KONYK: Opposed?

43          (No response)

44          CHAIRPERSON KONYK: Motion carries unanimously.  
45 I have before me the proof of publication in the Palm  
46 Beach Post on May 1, 2005. And the next item on the  
47 agenda would be the remarks of the Zoning Director.

48          MR. SEAMAN: I might announce that this meeting  
49 is the first one which we will continue every other  
50 meeting with a video recording of the activities of this  
51 Board, so that's my announcement.

52          CHAIRPERSON KONYK: Okay. Approval of the  
53 agenda. Do you have any corrections?

54          MR. SEAMAN: There are two corrections. Item  
55 2005-302 has been withdrawn, and the second correction is  
56 2005-458, which is in page 74 of your report. And the  
57 correction is on the cover sheet, and if you look at  
58 where it says required we have 27.5 feet maximum. It  
59 should be 25 percent. Where it says proposed to your  
60 right it says 42, which should read 38 percent, and where  
61 it says the variance -- potential variance to be granted  
62 is not 14.5 feet, but it is actually 13 percent increase.

1           CHAIRPERSON KONYK:     Which item is that on,  
2 Alan?  
3           MR. SEAMAN:     It is item 05-458, page 74. We  
4 actually put dimensions in there and they should be  
5 percentages. And those are the two corrections. There  
6 are conditions but as we get to that petition I'll bring  
7 that up.  
8           CHAIRPERSON KONYK:     Okay. Thank you. Anybody  
9 that is going to speak at this meeting on any item or if  
10 you expect that you speak on any item if you could please  
11 stand now, raise your right hand, and be sworn in. And  
12 if you haven't been sworn in, you won't be able to speak,  
13 so if you think you might speak you solve the problem by  
14 standing now. Thank you.  
15           (Whereupon, the speakers were sworn in by Mr.  
16 Flaxman.)  
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23           CHAIRPERSON KONYK:     The first item on the  
24 agenda is BA2004-00993, Holland & Knight, agent, for Anya  
25 Group, for a postponement. It doesn't say for how long  
26 or if it's by right.  
27           MR. SEAMAN:     This is for 60 days, and it's  
28 going to be by vote, and this will be to July 21.  
29           CHAIRPERSON KONYK:     Is there any member of the  
30 public here to speak on this item? Are you the  
31 applicant?  
32           UNIDENTIFIED SPEAKER:     Yes.  
33           CHAIRPERSON KONYK:     Okay. That's good.  
34           UNIDENTIFIED SPEAKER:     I'm just here to answer  
35 questions.  
36           CHAIRPERSON KONYK:     Okay, great. Stay there.  
37 I just wanted to make sure there was no one from the  
38 public to speak. Does any Board member have an objection  
39 to this Board item being postponed for 60 days?  
40           VICE CHAIRMAN BASEHART:     Is this the one where  
41 the neighbor who is going to be having his birthday party  
42 in New York asked for the postponement?  
43           UNIDENTIFIED SPEAKER:     Yes.  
44           VICE CHAIRMAN BASEHART:     Oh, it is. That's not  
45 why we asked for it then.  
46           CHAIRPERSON KONYK:     The opposition it was.  
47 Okay.  
48           MR. SEAMAN:     FDOT is still looking into right-  
49 of-way issue, easement issue, which is why they're asking  
50 for another 60 days.  
51           CHAIRPERSON KONYK:     Okay.  
52           VICE CHAIRMAN BASEHART:     So it would be on the  
53 July agenda.  
54           MR. SEAMAN:     July 21.  
55           CHAIRPERSON KONYK:     Okay. Any member of the  
56 Board prepared to make a motion to postpone this item?  
57           MR. SADOFF:     So moved.  
58           CHAIRPERSON KONYK:     Okay. Motion by Mr.  
59 Sadoff. Second?  
60           MS. CARDONE:     Second.  
61           CHAIRPERSON KONYK:     Second by Ms. Cardone. All  
62 those in favor?

1                   BOARD MEMBERS: Aye.  
2                   CHAIRPERSON KONYK: Opposed?  
3                   (No response)  
4                   CHAIRPERSON KONYK: Motion carries unanimously.  
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11                   CHAIRPERSON KONYK: The first item on consent  
12 is BA2005-00452, Andrea Gardner. Is the applicant  
13 present? To allow an existing porch addition and roof  
14 over hang to encroach into the required interior setback,  
15 side interior setback. Your name for the record?

16                   MS. GARDNER: Andrea Gardner.

17                   CHAIRPERSON KONYK: Okay. Staff has  
18 recommended one condition. Do you understand and agree  
19 with that?

20                   MS. GARDNER: Yes, ma'am.

21                   CHAIRPERSON KONYK: Is there any member of the  
22 public here to speak against this item?

23                   (No response)

24                   CHAIRPERSON KONYK: Any letters?

25                   MR. SEAMAN: There were six, and of the six  
26 they were just clarification.

27                   CHAIRPERSON KONYK: Any Board member feel this  
28 item warrants a full hearing?

29                   (No response)

30                   CHAIRPERSON KONYK: Seeing none, you may sit  
31 down. Your item will remain on consent. When we vote on  
32 it, you can -- will the letters be issued today on that?  
33 No. Your letter will be forthcoming, but you can leave  
34 after we vote.  
35

36                   BOARD OF ADJUSTMENT CONDITIONS  
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38 The variance request is only for the existing porch  
39 addition. All other improvements shall meet the ULDC  
40 requirements. (ON-GOING:ZONING:ZONING)  
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47                   CHAIRPERSON KONYK: BA2005-00453, James and  
48 Sandra Ringdahl, owners, to allow an existing pond to  
49 encroach in the required rear and side interior setbacks.  
50 Is the applicant present? Come forward for the record.  
51 Let the record reflect that Mr. Misroch has arrived.  
52 Your name for the record?

53                   MS. RINGDAHL: Sandra Ringdahl.

54                   CHAIRPERSON KONYK: Staff has recommended one  
55 condition. Do you understand and agree with that  
56 condition?

57                   MS. RINGDAHL: Yes. Yes, ma'am.

58                   CHAIRPERSON KONYK: Is there any member of the  
59 public here to speak against this item?  
60                   (No response)

61                   CHAIRPERSON KONYK: Any letters?  
62                   MR. SEAMAN: There are three, and they're in

1 favor of approval.

2 CHAIRPERSON KONYK: Any Board member feel this  
3 item warrants a full hearing?

4 (No response)

5 CHAIRPERSON KONYK: Seeing none, your item will  
6 also remain on consent.

7

8 BOARD OF ADJUSTMENT CONDITIONS

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10 By May 19, 2006, the applicant shall complete the  
11 subdivision process pursuant to Article 11 (Subdivision,  
12 Platting, and required improvements.)

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20 CHAIRPERSON KONYK: The next item on consent is  
21 BA2005-00454, Francois and Agnes Cade, to allow an  
22 existing carport to be enclosed and encroach into the  
23 required setback. Your name for the record?

24 MR. CADE: Francois Cade.

25 CHAIRPERSON KONYK: Okay. Staff has  
26 recommended two conditions. Do you understand and agree  
27 with those?

28 MR. CADE: Yes.

29 CHAIRPERSON KONYK: Is there any member of the  
30 public here to speak against this item?

31 (No response)

32 CHAIRPERSON KONYK: Any letters?

33 MR. SEAMAN: One for clarification.

34 CHAIRPERSON KONYK: Any Board member feel this  
35 item warrants a full hearing?

36 (No response)

37 CHAIRPERSON KONYK: Seeing none, your item will  
38 remain on consent. You may have a seat.

39

40 BOARD OF ADJUSTMENT CONDITIONS

41

42 1. By November 19, 2005, the applicant shall secure a  
43 building permit in order to vest this variance.  
44 (DATE:BUILDING:ZONING)

45

46 2. The variance request is only for the existing  
47 converted carport addition. All other improvements shall  
48 meet the ULDC requirements. (ONGOING:ZONING:ZONING)

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55 CHAIRPERSON KONYK: The next item is BA2005-  
56 00455, Francisco and Susana Forbes, to allow an addition  
57 single family development to encroach into the required  
58 side interior setback. Is the applicant present? Your  
59 name for the record, sir.

60 MR. FORBES: Francisco Forbes.

61 CHAIRPERSON KONYK: Okay. Staff has  
62 recommended two conditions. Do you understand and agree

1 with those?

2 MR. FORBES: Yes. Yes.

3 CHAIRPERSON KONYK: Okay. Any member of the  
4 public here to speak against this item?

5 (No response)

6 CHAIRPERSON KONYK: Any letters?

7 MR. SEAMAN: There are none.

8 CHAIRPERSON KONYK: Any Board member feel this  
9 item warrants a full hearing?

10 (No response)

11 CHAIRPERSON KONYK: Seeing none, your item will  
12 remain on consent. You may have a seat.

13  
14 BOARD OF ADJUSTMENT CONDITIONS

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16 1. Prior to final certificate of completion, the  
17 applicant shall saw cut the existing concrete driveway  
18 along the west property line in order to comply with  
19 Article 6 Chap C.1.A. (Driveways for lots located on  
20 local or residential access streets shall maintain a  
21 minimum setback of 2ft from a side or rear lot line.)  
22

23 2. By August 19, 2005, the applicant shall secure a  
24 Building Permit for the existing addition along the west  
25 property line in order to vest this variance.  
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32 CHAIRPERSON KONYK: The next item on consent is  
33 BA2005-00457, Daisy Martinez, to allow an existing  
34 structure to encroach into the required rear and side  
35 interior setback. Applicant.

36 MS. MARTINEZ: I'm Daisy Martinez.

37 CHAIRPERSON KONYK: Okay. Thank you. Staff  
38 has recommended three conditions. Do you understand and  
39 agree with those?

40 MS. MARTINEZ: Yes.

41 CHAIRPERSON KONYK: Is there any member of the  
42 public here to speak against this item?

43 (No response)

44 CHAIRPERSON KONYK: Any letters?

45 MR. SEAMAN: There are four, one in approval  
46 and three disapproving, and the three that disapprove are  
47 concerned about increasing traffic, and the other comment  
48 is they just don't think guest cottages should be  
49 allowed.

50 CHAIRPERSON KONYK: So they're not  
51 substantially related to the variance?

52 MR. SEAMAN: There's no fact.

53 CHAIRPERSON KONYK: Okay. Any Board member  
54 feel this item warrants a full hearing?

55 (No response)

56 CHAIRPERSON KONYK: Seeing none, your item will  
57 also remain on consent. Did I ask -- yeah, I asked if  
58 there was anybody from the public.  
59

60 BOARD OF ADJUSTMENT CONDITIONS

61 1. By June 19, 2005, the applicant shall obtain a  
62 building permit for the existing guest cottage.



1 (DATE:BUILDING:ZONING)

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2. The variance request is only for the existing 14.1 feet addition. All other improvements shall meet the ULDC requirements. (ON-GOING:ZONING:ZONING)

3. The applicant shall maintain the existing 6 feet tall wood fence along the NE property line. (ON-GOING:ZONING:ZONING)

CHAIRPERSON KONYK: BA2005-00461, Kilday & Associates, agent for Beverly Buss and Joseph Horvath, to allow a reduction in the east property line incompatibility buffer. Your name for the record.

MR. WALTER: Good morning. Lindsey Walter with Kilday. The conditions are acceptable.

CHAIRPERSON KONYK: Okay. Those three conditions are accepted. Any member of the public here to speak against this item?

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There's one. It was for clarification.

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

(No response)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By May 19, 2006, or upon DRO certification, the applicant shall amend the site plan to reflect the variance approval pursuant to BA-2005-461.

(DATE:DRO:ZONING)

2. All plant material required by the ULDC, within the 15 feet incompatibility buffer along the east property line, shall be installed within the approved 5 feet incompatibility buffer and the adjoining 10 feet drainage easement. (ON-GOING:LANDSCAPE:ZONING)

3. The applicant shall comply with the Loxahatchee Groves Neighborhood Plan recommendation 1, item 2, that requires the rear 50 feet of the property shall provide a 100 percent opaque barrier. The recommendation states that opacity can be provided by either: 1)landscaping; and 2)a fence or a wall. (ON-GOING:CODE ENFORCEMENT:ZONING)

CHAIRPERSON KONYK: The next item on consent, BA2005-00462, JPR Planning Services, agent, for Palm

1 Beach County Property and Real Estate Management  
2 Division, to allow a reduction in the required setbacks  
3 for two ponds along the north property line. Your name  
4 for the record.

5 MS. LINDSEY: Jean Lindsey, JPR Planning  
6 Services.

7 CHAIRPERSON KONYK: And staff has recommended  
8 one condition. Do you understand and agree with that  
9 condition?

10 MS. LINDSEY: Yes, we do.

11 CHAIRPERSON KONYK: Is there any member of the  
12 public to speak against this item?

13 (No response)

14 CHAIRPERSON KONYK: Any letters?

15 MR. SEAMAN: No, there are not.

16 CHAIRPERSON KONYK: Any Board member feel this  
17 item warrants a full hearing?

18 (No response)

19 CHAIRPERSON KONYK: Seeing none, this item will  
20 remain on consent.

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BOARD OF ADJUSTMENT CONDITIONS

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24 By August 19, 2005, the applicant shall amend the final  
25 site plan to denote the variance request pursuant BA-  
26 2005-462.

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33 CHAIRPERSON KONYK: BA2005-00463, Gentile  
34 Holloway O'Mahoney & Associates, to allow the use of a  
35 non-translucent material for windows along the zero lot  
36 line. Name for the record?

37 MS. MAHR: Wendy Mahr with Gentile Holloway and  
38 O'Mahoney.

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

41 MS. MAHR: Yes, we do.

42 CHAIRPERSON KONYK: Any member of the public  
43 here to speak against this item?

44 (No response)

45 CHAIRPERSON KONYK: Any letters?

46 MR. SEAMAN: There are 12 letters and they are  
47 all in approval.

48 CHAIRPERSON KONYK: Okay. Any Board member  
49 feel this warrants a full hearing?

50 (No response)

51 CHAIRPERSON KONYK: Seeing none, this item will  
52 remain on consent.

53

54

BOARD OF ADJUSTMENT CONDITIONS

55

56 1. By May 19, 2006, the applicant shall provide the  
57 Building Division with a copy of the Board of Adjustment  
58 result letter and a copy of the site plan presented to  
59 the Board, simultaneously with the Building permit  
60 application. (DATE:MONITORING BLDG PERMIT:BLDG)

61

62 2. By May 19, 2006, the applicant shall obtain a

1 building permit for the proposed windows addition in  
2 order to vest the variance approved pursuant to BA2002-  
3 036 (DATE:MONITORING:BLDG PERMIT)

4  
5 3. The variance is limited to the zero lot units on lot  
6 #29. (ON-GOING)

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13 CHAIRPERSON KONYK: BA2005-00464, Jones Foster  
14 Johnston & Stubbs, to allow signs to exceed the maximum  
15 sign area along the north, south, east and west  
16 elevations, and to allow a sign above the roof line.  
17 Name for the record?

18 MR. WEAVER: Adams Weaver.

19 CHAIRPERSON KONYK: The staff has recommended  
20 one condition. Do you understand and agree with that?

21 MR. WEAVER: We do.

22 CHAIRPERSON KONYK: Is there any member of the  
23 public here to speak against this item?

24 (No response)

25 CHAIRPERSON KONYK: Any letters?

26 MR. SEAMAN: None.

27 CHAIRPERSON KONYK: Any Board member feel this  
28 item warrants a full hearing?

29 (No response)

30 CHAIRPERSON KONYK: Seeing none, your item will  
31 remain on consent.

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33 BOARD OF ADJUSTMENT CONDITIONS

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35 By August 19, 2005, the applicant shall obtain building  
36 permits for the replacement of the existing signs.  
37 (DATE:BUILDING:ZONING)

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44 CHAIRPERSON KONYK: The next item on consent is  
45 BA2005-00488, Woolbright Development, to allow an  
46 easement to overlap a required landscape buffer more than  
47 5 feet. Your name for the record?

48 MR. RICKARDS: For the record, Marc Rickards  
49 for the owner, Woolbright Development.

50 CHAIRPERSON KONYK: And staff has recommended  
51 two conditions. Do you understand and agree with those?

52 MR. RICKARDS: I do.

53 CHAIRPERSON KONYK: Any member of the public  
54 here to speak against this item?

55 (No response)

56 CHAIRPERSON KONYK: Any letters?

57 MR. SEAMAN: There is one in opposition but it  
58 doesn't say why.

59 CHAIRPERSON KONYK: Okay. Any Board member  
60 feel this item warrants a full hearing?

61 (No response)

62 CHAIRPERSON KONYK: Seeing none, this item will

1 remain on consent.

2  
3 BOARD OF ADJUSTMENT CONDITIONS  
4

5 1. All plant material required by the ULDC within the  
6 30 feet landscape buffer along the east property line  
7 shall be installed within the 18 feet of the landscape  
8 buffer not overlapping the 12 feet utility easement.  
9 (ON-GOING, LANDSCAPE:ZONING)  
10

11 2. By May 19, 2006, or prior to DRO certification, the  
12 applicant shall amend the site plan to reflect the  
13 variance approval pursuant to BA-2005-488.  
14 (DATE:DRO:ZONING)  
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21 CHAIRPERSON KONYK: The next item, BA2005-  
22 00511, Dennis Koehler, agent, for Sandra and Harold  
23 Davis, to allow an existing structure to encroach into  
24 the required side interior setback. Your name for the  
25 record?

26 MR. KOEHLER: Dennis Koehler.

27 CHAIRPERSON KONYK: Staff has recommended one  
28 condition. Do you understand and agree with that?

29 MR. KOEHLER: We do. I would simply also ask  
30 everyone to note that the correct address of the location  
31 is 4437 Sand Pine Circle. It's been listed as a couple  
32 of different addresses in the reports.

33 VICE CHAIRMAN BASEHART: We have a property  
34 with aliases, is that what you're saying?

35 CHAIRPERSON KONYK: Can we correct that? Can  
36 it be corrected? We'll note that and correct it. Okay.

37 MR. SEAMAN: Noted and corrected.

38 CHAIRPERSON KONYK: Okay. Any member of the  
39 public here to speak against this item?

40 (No response)

41 CHAIRPERSON KONYK: Any letters?

42 MR. SEAMAN: There are 13 letters, three for  
43 clarification, five who approve and five who disapprove,  
44 and basically what they're saying is they're concerned  
45 with how this will affect parking which doesn't really  
46 relate to the setback issue.

47 CHAIRPERSON KONYK: Okay. Any Board member  
48 feel this item warrants a full hearing?

49 (No response)

50 CHAIRPERSON KONYK: Seeing none, this item will  
51 remain on consent.  
52

53 BOARD OF ADJUSTMENT CONDITIONS  
54

55 By June 19, 2005, the applicant shall apply for all of  
56 the necessary building permits required for a new mobile  
57 home.  
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61 CHAIRPERSON KONYK: BATE2005-00643, Ruben and  
62 Martha Espinosa, to allow a 12 month time extension on

1 the development order. Hi. Your name for the record?  
2 MR. ESPINOSA: Ruben Espinosa.  
3 CHAIRPERSON KONYK: No public here to speak on  
4 this item, right?  
5 MR. SEAMAN: Excuse me.  
6 CHAIRPERSON KONYK: Okay.  
7 MR. SEAMAN: There's a correction on the  
8 conditions.  
9 CHAIRPERSON KONYK: Okay.  
10 MR. SEAMAN: That would be on page 55 of your  
11 report.  
12 CHAIRPERSON KONYK: You got a new condition for  
13 the time extension?  
14 MR. SEAMAN: Not new. It's just that the  
15 conditions that were put in there were incorrect, so we  
16 need to...  
17 CHAIRPERSON KONYK: Are you aware of that?  
18 MR. ESPINOSA: Yes.  
19 CHAIRPERSON KONYK: Okay.  
20 MR. SEAMAN: He's the one that brought it to  
21 our attention, I believe. So if you'll turn to page 55  
22 of your report, and at the lower part of the report it  
23 says development order. The development order is  
24 correct. If you go to the Board of Adjustment  
25 conditions, the first condition needs to be completely  
26 deleted, and it should say by May 20, 2005, or prior to  
27 DRO certification, the applicant shall insure the BA  
28 conditions are shown on the certified site plan.  
29 Condition -- I'm sorry. That's the way the condition  
30 was. Now I will read the way it's supposed to be, which  
31 is what he's getting the extension for today. By May 20,  
32 2006, it essentially changes the years here from 2005 to  
33 2006, or prior to DRO certification the applicant shall  
34 ensure the BA conditions are shown on the certified site  
35 plan. And that's the only corrections.  
36 CHAIRPERSON KONYK: Okay. Do you understand  
37 and agree with those corrections?  
38 MR. ESPINOSA: That's correct.  
39 CHAIRPERSON KONYK: Okay. Any letters? No,  
40 there wouldn't be. Any Board member feel that this item  
41 does not warrant a time extension?  
42 (No response)  
43 CHAIRPERSON KONYK: Seeing none, your item will  
44 remain on consent and receive a time extension.  
45 MR. ESPINOSA: Thank you.

46  
47 BOARD OF ADJUSTMENT CONDITIONS  
48

- 49 1. By May 20, 2005, or prior to DRO certification, the  
50 applicant shall insure the BA conditions are shown on the  
51 certified site plan.  
52
- 53 2. Prior to the issuance of a "Building Permit," all of  
54 the required landscaping, as detailed in Section D of  
55 Resolution 02-609 (Petition-01-054), shall be planted in  
56 the reduced incompatibility landscape buffer along the  
57 South property line. (LANDSCAPE)  
58
- 59 3. Prior to the issuance of a "Building Permit," all of  
60 the required foundation planting that was to be planted  
61 along the East side (5 feet) and along the South side (8  
62 feet) of the existing building shall be installed within

1 the required landscape buffers.

2  
3 4. Prior to the issuance of a "Building Permit," the  
4 applicant shall submit both the Board of Adjustment  
5 Result letter and a copy of the approved survey/site plan  
6 to the Building Division. (EVENT:Monitoring:Building)  
7  
8  
9  
10  
11  
12

13 CHAIRPERSON KONYK: The next item is SD-125,  
14 Palm Beach County Water Utilities Department, requesting  
15 variances from the requirements that no direct access to  
16 a major street be allowed for subdivision lots, and each  
17 street providing access to subdivision lots shall meet  
18 the local commercial classifications. Your name for the  
19 record?

20 MS. LINDSEY: Jean Lindsey, JPR Planning  
21 Services.

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

24 MS. LINDSEY: Yes, we do.

25 CHAIRPERSON KONYK: Okay. Any member of the  
26 public here to speak against this item?

27 (No response)

28 CHAIRPERSON KONYK: Any letters?

29 MR. SEAMAN: No.

30 CHAIRPERSON KONYK: Any Board member feel this  
31 item warrants a full hearing?

32 (No response)

33 CHAIRPERSON KONYK: Seeing none, this item will  
34 remain on consent.  
35

36 BOARD OF ADJUSTMENT CONDITIONS  
37

38 1. In order to vest the variance approval, by May 19,  
39 2007, the subject 21 acre site shall be legally  
40 established as a single lot by recordation of either an  
41 Affidavit of Plat Waiver or a suitable plat, approved in  
42 accordance with applicable requirements of Article 11,  
43 ULDC.  
44

45 2. The subject 21 acre site shall be used solely for  
46 construction of public utility and appurtenant  
47 facilities.  
48  
49  
50  
51  
52  
53

54 CHAIRPERSON KONYK: To recap, we have the  
55 following items on consent, BA2005-00452, BA2005-00453,  
56 BA2005-00454, BA2005-00455, BA2005-00457, BA2005-00461,  
57 BA2005-00462, BA2005-00463, BA2005-00464, BA2005-00488,  
58 BA2005-00511, BATE2005-00643, and SD-125. Is any Board  
59 member prepared to make a motion to approve these items?  
60 Let me Mr. Basehart do it. Go ahead. Because you always  
61 get the stuff in the record correct.

62 VICE CHAIRMAN BASEHART: Oh, okay. I'd like to

1 make a motion that all the items just read on the consent  
2 agenda be approved consistent with the staff report and  
3 conditions of approval that were in the report and  
4 modified I think in one case. And I would like the  
5 record to reflect that the staff report is the record of  
6 this hearing.

7 CHAIRPERSON KONYK: Okay. We have a motion by  
8 Mr. Basehart. Do we have a second?

9 MR. SADOFF: Second.

10 CHAIRPERSON KONYK: Second by Mr. Sadoff. All  
11 those in favor?

12 BOARD MEMBERS: Aye.

13 CHAIRPERSON KONYK: Opposed?

14 (No response)

15 CHAIRPERSON KONYK: Motion carries unanimously.  
16 Your variances are approved.

17  
18  
19  
20  
21  
22  
23 CHAIRPERSON KONYK: Okay. The first item was  
24 withdrawn, so the first item is now BA2005-00458, Michael  
25 and Tammy Smith, to allow a garage to encroach into the  
26 required front setback and to exceed the maximum distance  
27 between property lines. This is recommended for denial  
28 by staff. Is the applicant present? You have been sworn  
29 in, correct? Your name for the record?

30 MR. SMITH: Michael Smith.

31 CHAIRPERSON KONYK: Okay. Could the staff read  
32 this into the legal for me?

33 MR. AUBOURG: Michael and Tammy Smith, owners,  
34 to allow garage to encroach into the required front  
35 setback and to exceed the maximum distance between  
36 property lines and for an existing single family dwelling  
37 to encroach into the required rear setback. Location,  
38 3960 89<sup>th</sup> Road, South, approximately .23 mile south of  
39 West Gateway Boulevard, on the northeast corner of  
40 Lawrence Road and Aladdin Avenue in the AR Zoning  
41 District.

42 CHAIRPERSON KONYK: Okay. Sir, there's seven  
43 criteria that have to be met in order for you to qualify  
44 for this variance, and we need you to demonstrate how  
45 you've met the seven criteria, so I'll let you get  
46 started.

47 MR. SMITH: The different stuff that's involved  
48 here is about a front setback issue of being 100 feet  
49 back from the road, and I got pictures of the average --  
50 Lawrence Road seems to be a place that the average  
51 setback within a two-mile area is like 14 feet, you know,  
52 so the way my house was designed, the hardship that I  
53 have, the house was put far off the street, and in order  
54 for me to have any frontage, I mean I could move the  
55 garage closer to my house but I wouldn't have any  
56 frontage. I got some pictures here what the house looks  
57 like. It used to be an A frame home, an older home, and  
58 I've remodeled it, so if I move the garage back it would  
59 lose the whole integrity of the home. It would, you  
60 know, take away from what the frontage looks like. I can  
61 show you what the picture...

62 CHAIRPERSON KONYK: Can you bring those

1 forward, and can we keep them, because if I accept them  
2 -- well, then just show them to us.

3 MR. SMITH: This shows what the house -- this  
4 is what it looks like now, so if I squeeze the garage  
5 within 30 feet of this, which I'd lose all my -- you  
6 know, then I wouldn't have an issue because the setback  
7 would be met. Our -- five lanes. What we're proposing  
8 is moving the garage, we propose 50 feet, but it actually  
9 left us like 80 feet between the house and the garage and  
10 we feel that that may be a little bit long to walk, so  
11 I'm proposing to move this within 65 feet of the front,  
12 which is like four times longer than any building within  
13 two miles of any different type of zoning.

14 This would give me about a 65 foot courtyard  
15 between my house and my garage, and it would make the  
16 property suitable. Anyway, our back yard, we're trying  
17 to put a pool between the two buildings and make it a  
18 structure that we can use, and it will look good for the  
19 neighbors as well. And if we put the pool in the back  
20 yard there's some variant for that too. I don't  
21 understand what it is. It's where the house was built.  
22 But the neighbors behind us are in a two-story house, and  
23 the whole downstairs is a garage so to put the pool in  
24 the back yard we wouldn't have no privacy at all.

25 So we're proposing to put it in between the  
26 house and the garage, and to try to make everybody happy  
27 here. We proposed 42 x 70. It seems like a few of the  
28 neighbors have a little bit of problem with it being that  
29 large. We decided to reduce it to 60 x 40, which would  
30 be big enough for us to get our personal belongings  
31 inside.

32 CHAIRPERSON KONYK: What are you talking about,  
33 the garage?

34 MR. SMITH: Yeah. And I'm just trying to make  
35 it all proportionate. That way the garage is basically  
36 the same footprint as the house. There would be like 65  
37 feet -- 60 feet in the back, 65 feet in the middle, the  
38 garage, and then there would be 65 feet in the front of  
39 it, so it would all set on the lot, you know, and  
40 somewhat look like it's supposed to be there. I'd hate  
41 to have 100 foot lot out in the front of my garage on a  
42 five lane road that we're never, ever going to sit in  
43 beach chairs out there. We're never going to be able to  
44 use that, you know.

45 So it's advantageous for us to try to push the  
46 building as far frontwards as possible even though it  
47 doesn't fit my setback, you know, but what we're  
48 proposing is four times further than anybody on the  
49 block. And this is the first neighbor's house. This is  
50 the first neighbor's house on Aladdin. This is how far -  
51 - this is the neighbor's house. This is how far their  
52 garage is from Lawrence Road. You can barely park a  
53 vehicle between their garage, and I'm proposing 65 feet.

54 MR. SEAMAN: These are pictures staff has never  
55 seen, by the way.

56 CHAIRPERSON KONYK: Well, I'm sure you're  
57 familiar with the area if you're recommending denial, but  
58 why don't you give us those pictures, let us accept them  
59 in the record, your photocopies there, because really  
60 when you show us stuff like that we really should be able  
61 to accept it into the record.

62 MR. SMITH: This is how my property sits. This



1 is the little store a block away that sits barely one  
2 vehicle from the back of the wall. This is a mobile home  
3 across the street from me. These are all the ABC blocks.  
4 It's an average of 14 feet. This is the depth of my  
5 property, and this is what my house looks like now  
6 compared to what it did. Now the adjacent street. This  
7 is the side setback. This is an average. Every house is  
8 no more -- this is the Cypress Creek Country Club. The  
9 houses are backed up to Lawrence Road.

10 This is the nursing home down the street that's  
11 no more than 50 feet from the road. I just want to be  
12 judged fairly. I'm just looking to try to develop the  
13 best I can. This is a house in the Cypress Creek Country  
14 Club.

15 CHAIRPERSON KONYK: That's not on Lawrence.

16 MR. SMITH: This is on Lawrence Road. This is  
17 Lawrence Road.

18 CHAIRPERSON KONYK: Oh, okay.

19 MR. SMITH: It's going to bid. It's going to  
20 bid this month to be five lanes. It's already done with  
21 in one block of us. This is a church down on -- this is  
22 Old Boynton Road and Lawrence Road. This is 50 feet.

23 CHAIRPERSON KONYK: Okay. How many of those  
24 pictures are you going to give us?

25 MR. SMITH: You can have all of them.

26 CHAIRPERSON KONYK: Okay. Do we have a motion  
27 to accept the pictures into the record? Motion?

28 MR. PUZZITIELLO: So moved.

29 CHAIRPERSON KONYK: By Mr. Puzzitiello. Second  
30 by Mr. Basehart. All those in favor?

31 BOARD MEMBERS: Aye.

32 CHAIRPERSON KONYK: Opposed?

33 (No response)

34 CHAIRPERSON KONYK: Motion carries unanimously.  
35 Okay. Do you have anything else you want to add to that?

36 MR. SMITH: I've checked with Miradieu. He's  
37 been the greatest for me. It's been a great thing. This  
38 is more like a mediation thing for me. I'm just trying  
39 to do the right thing. You know, he tells me that I got  
40 a thing here of a metal building. As long as it has a  
41 product approval, I can build it on the lot. I can build  
42 a Quonset hot. I know my neighbors aren't going to look  
43 for an 800 foot Quonset hot with an awning on the side,  
44 you know what I mean, so what I'm proposing is a CBS  
45 building. I'm going to use what they call finished stone  
46 on three sides. On the front side there's going to be  
47 two garage doors. I'm going to put hardy board siding on  
48 the front so it matches the house. It's going to be the  
49 most appealing.

50 I bought an ugly duckling of a house, so I'm  
51 not going to say it's the nicest house on the block but  
52 in my eyes it's probably the nicest house within a mile  
53 of my house. So if I'm just given a fair chance to do  
54 the right thing, you know, try to make the best of all of  
55 it.

56 CHAIRPERSON KONYK: Okay. Is there a staff  
57 report? Well, let's hear from the public. Is there any  
58 public here to speak against this item? Okay. Why don't  
59 you have a seat. We'll hear from the public, we'll hear  
60 from the staff, and then we'll bring you back up to ask  
61 you some questions and let you respond to the opposition.  
62 So are we going to accept those? Those are for us?

1           MR. SMITH: Yes, two copies.  
2           CHAIRPERSON KONYK: Okay. Bring them up here.  
3 Any other pictures you want us to have because we'll  
4 accept them all at the same time.  
5           MR. SMITH: There's two copies.  
6           CHAIRPERSON KONYK: Okay. I'll send one over.  
7 Can I have a motion to accept these pictures?  
8           MR. CUNNINGHAM: So moved.  
9           CHAIRPERSON KONYK: A motion by Mr. Cunningham.  
10          MR. JACOBS: Second.  
11          CHAIRPERSON KONYK: Second by Mr. Jacobs. All  
12 those in favor?  
13          BOARD MEMBERS: Aye.  
14          CHAIRPERSON KONYK: Opposed?  
15          (No response)  
16          CHAIRPERSON KONYK: Motion carries unanimously.  
17 Okay. Do you want to give us your name for the record?  
18          MR. FORD: Yes. My name is Jim Ford.  
19          CHAIRPERSON KONYK: And your address?  
20          MR. FORD: 3927 89<sup>th</sup> Road South.  
21          CHAIRPERSON KONYK: Okay.  
22          MR. FORD: And I've lived on 89<sup>th</sup> Road for -- I  
23 built my house in 1985.  
24          CHAIRPERSON KONYK: Okay. Is that off of  
25 Lawrence?  
26          MR. FORD: Yes. It is off of Lawrence. It's  
27 the A frame. When I moved into the neighborhood an older  
28 gentleman had built it previous to my moving to the  
29 neighborhood. Previous to my moving to the neighborhood  
30 the house up until the point the Smiths bought it their  
31 frontage was on 89<sup>th</sup> Road, and because he wanted to build  
32 north and south he changed his frontage to Lawrence Road  
33 so that he could expand his house north and south, and  
34 that's why he got his setback because we're  
35 agriculturally zoned and we have percentage setback. He  
36 did a beautiful job with the house fixing the house up  
37 and putting the additions on it. He did do it and my hat  
38 is off to him. He did a beautiful job there. I don't --  
39 I'd like to see him get a garage because obviously from  
40 the pictures there's some things that need to be put  
41 away, and I mean the neighbors don't like what we've been  
42 subjected to for the last -- you know, since he started.  
43          We understood that he was in the process of  
44 construction when he started a couple years ago and so we  
45 wanted to allow him sufficient time, you know, to do what  
46 he had to do there, but he's got the house finished. And  
47 what we're afraid of as neighbors on the street is that  
48 should Mr. Smith build this tremendously big garage that  
49 he could park a motor home in that in time it would  
50 gravitate even if he were to sell the property. We're  
51 afraid as neighbors that it would gravitate toward  
52 commercial usage. And I don't think that the size in  
53 what he's proposing to do is going to fit the character  
54 of our neighborhood.  
55          We don't oppose a small residential garage that  
56 he can park two or three cars in and put his things away.  
57 We welcome that because it would clean the neighborhood  
58 up and I think it would be attractive to the people in  
59 the neighborhood. But we're just afraid that if this  
60 thing is let loose that we're going to have a warehouse  
61 at the end of our street. And we don't want any hard  
62 feelings with Mr. Smith and his wife, but I just -- I'm

1 afraid for our neighborhood, and I think the rest of the  
2 neighbors on the street feel the same.

3 CHAIRPERSON KONYK: Thank you. And I'd like to  
4 commend you for your opposition being so polite. It's  
5 not always like that here, and we appreciate that.

6 MR. RISPOLI: Hi. My name is Tom Rispoli. I  
7 live at 3900 89<sup>th</sup> Road. More or less along the same lines  
8 with Mr. Ford. I'm as concerned about the size of the  
9 structure as to the purpose of the structure. I mean I  
10 just -- you know, I understand everybody has their  
11 hobbies, cars, whatever, but I don't want an industrial  
12 looking building at the end of the street. And, you  
13 know, vehicles parked all around it. I don't know what  
14 the future plans are but we've all been patient with  
15 whatever he's been doing as far as the vehicles being  
16 parked on the property and some other stuff.

17 And, you know, we just want to make sure that  
18 the right looking structure is there because it's going  
19 to affect everybody's property value. You have \$500,000  
20 houses that were just built within 1,000 feet of...

21 CHAIRPERSON KONYK: On the left side of  
22 Lawrence.

23 MR. RISPOLI: Yeah. You have that whole  
24 development and there's some very expensive houses there.  
25 And you're going to see this as the road is widened, this  
26 is what you'll see from Lawrence. This is, you know,  
27 obviously what we'll see every day. It's going to affect  
28 everybody's property values if there's an industrial  
29 building at the end at the corner. I mean I don't know  
30 what is the code as far as what you can build there but  
31 everyone is going to see it. I mean it's going to be the  
32 first thing you see from both Lawrence and from 89<sup>th</sup> Road  
33 when you turn onto the street. So that's my main concern  
34 that it looks like a residence, not an industrial  
35 warehouse.

36 CHAIRPERSON KONYK: Right. And is your concern  
37 for the structure as well as for these commercial  
38 vehicles that are on the lot?

39 MR. RISPOLI: Well, you know, the county as far  
40 as I understand has bought the north side of the property  
41 for a retention pond. You got a retention pond which is  
42 probably going in there. You got a canal on the other  
43 side, you know. If he's doing body work and stuff like  
44 that. I'm not saying that that's what he's going to do,  
45 but I'm just saying there's got to be a reason for a  
46 42x70 garage. What are the reasons for that other than  
47 commercial use. That's what I do. I do industrial  
48 warehousing, so I mean you don't have that size structure  
49 if you're not planning some sort of commercial use even  
50 if it's for personal reasons. It's still commercial use,  
51 you know what I mean. It's a commercial style use, I  
52 should say.

53 CHAIRPERSON KONYK: Okay. Thank you. Anyone  
54 else to speak on this item? Can we hear from staff? Do  
55 you want to respond to anything that they said or do you  
56 want to wait to hear from the staff?

57 MR. SMITH: I want to respond.

58 CHAIRPERSON KONYK: Okay.

59 MR. SMITH: The stuff that you see there other  
60 than one vehicle. I think there must be a picture of the  
61 moving van truck there. I befriended the guy. He needed  
62 a break. He worked for somebody and he just bought that

1 truck. When school is out, they own property in north  
2 Florida and that's where he's moving that business to but  
3 he can't go anywhere for three more weeks until school is  
4 out because he has a 12-year old daughter. What I like  
5 about the vehicle being there is it hides that -- the  
6 picture of the truck and trailer, it hides that from the  
7 road.

8 I have my first car that I ever owned in that  
9 trailer. It's a 1966 Chevy Malibu. I've been offered  
10 over \$50,000 for it. Recently, actually I think it was  
11 yesterday the house right behind Mr. Ford's, they broke  
12 the sliding glass door and went and robbed it yesterday.  
13 Okay. My trailer that you see there, it was three months  
14 ago -- it's brand spanking new. I had to buy it to bring  
15 my car to where we lived. I had no place to store it.  
16 They tried to break in the back door, couldn't get in,  
17 but it had these new dead bolt locks. They tried to  
18 break in the side door. They didn't get in. I thought I  
19 was scot free. They ripped the roof air conditioner off  
20 the roof of it and went in through the roof, but they  
21 weren't able to get anything out of it.

22 So the reason for the size of my toy box that  
23 I'm proposing is so I can put everything that I own  
24 inside. And the comment that you're hearing from these  
25 people, one of them has a one car garage and the other  
26 one doesn't have a garage at all. Okay. I'm the first  
27 one on the block, and there's got to be 100 cars a day  
28 that go by my house on that dirt road. Now my frontage  
29 is Lawrence Road. My address is 89<sup>th</sup> Road South, the dirt  
30 road, and I live on the other side -- on the other side  
31 of the canal is Aladdin. I live on three different  
32 roads. Okay.

33 They're telling me my frontage is Lawrence  
34 Road, but if they decide to pave the dirt road I'm  
35 required to pay for the first 200 feet, so I get hit two  
36 different ways. It hasn't been fair to me. Mr. Wheeler,  
37 the A frame that I got, he owned everybody's property and  
38 he subbed it off. My front door actually faces 180  
39 degrees away from Lawrence Road. I'm actually building  
40 this garage in my back yard, okay, not in my front yard.  
41 But we've turned the house completely around to make it  
42 what it is.

43 These people go by my house every single day,  
44 and I'm sure if you see that green truck there, it's a  
45 \$30,000 pickup truck. It has dirt this thick on it all  
46 the time. Everything that we own is covered in dirt from  
47 that dirt road. I have never driven past their house.  
48 My house is the first one on the right. The person that  
49 lives behind me, there's only two people on my side of  
50 the street, and they can tell you he goes by my house at  
51 an average of 40 miles an hour.

52 CHAIRPERSON KONYK: Let's stick to the  
53 variance.

54 MR. SMITH: The idea of the variance is just to  
55 counteract what they're saying about the size of the box.  
56 They are going to be much happier, I'm going to try my  
57 hardest and with conditions and whatever it takes to  
58 build a nice CBS structure like I'm saying with chip  
59 stone and hardy board siding on the front, two garage  
60 doors, not an industrial warehouse where every single  
61 unit is going to have a -- I want two garage doors. I  
62 don't want it to look like an eyesore. I've reduced the

1 size of the building to 60x40 instead of 42x70. I can  
2 get my stuff in that building. To try to make them happy  
3 and to add more setback to the front thing just trying to  
4 meet everybody in the middle here. It's going to be hard  
5 enough for me to -- you know, I know we're neighbors and  
6 all that, and we have to try to be neighborly, you know  
7 what I mean.

8 I want to support everybody and make them  
9 happy, but if I built an 800 square foot garage you're  
10 not going to get two cars and your lawnmower and your  
11 bicycles in there. Then they're going to look at -- I  
12 don't want to leave my white box outside my trailer. I  
13 mean it just gets destroyed by the sun. It's already  
14 been broken into once. We have a tropical storm just  
15 below us. It's hurricane season all the time. That's  
16 all I ever hear. And I like to be able to secure what I  
17 have. I live in a wood frame house now. And the front  
18 section is going to be a garage and the first section in  
19 the back, 14 foot of it, is going to be like a home  
20 office in the middle on one thing, and the rest is going  
21 to be like a cabana so it will be a CBS building with a  
22 hip roof, no big gables, nothing fancy.

23 I'm trying to keep it conservative and clean so  
24 we have a place to go and protect our family in case of a  
25 hurricane so we can be in a CBS construction instead of  
26 in a wood frame house, and that I don't want to build a  
27 metal building, and if I had to reduce the size I would  
28 not lower myself to putting up this metal building just  
29 because I could be spiteful. I'm not that type of  
30 person. And you can ask Mr. Ford back up here. The  
31 house that I moved from was the nicest house within four  
32 blocks, and I can't stand the condition that it's -- the  
33 pictures that you see of what it's in.

34 But you can ask Miradieu. I've been coming up  
35 here for a long, long time. They have to be as patient  
36 as I am because this is a slow process. I have been  
37 ready to make -- I can't start the blue print until I get  
38 some approval, and here I wanted to get this done before  
39 hurricane season, and hopefully I'm not in the middle of  
40 this project when we get our first storm. So judge me  
41 fairly, if you would, and see if we can't come to a  
42 resolution where everybody can be happy. Thank you.

43 CHAIRPERSON KONYK: Okay. Staff. Before you  
44 start, I have a question. That's a residential area?

45 MR. SEAMAN: Yes, it is.

46 CHAIRPERSON KONYK: How does the county feel  
47 about that truck? Are you allowed to park...

48 MR. SEAMAN: Right now they're under  
49 investigation by code enforcement.

50 CHAIRPERSON KONYK: You're not allowed to park  
51 trucks like that in a residential area, are you?

52 MR. SEAMAN: No. That's partly why they're  
53 being investigated.

54 CHAIRPERSON KONYK: A lot of times when you do  
55 things like that, I know you're trying to be nice to  
56 somebody, but you just make people angry around you and  
57 they protest everything you want to do, so you need to  
58 get that truck out of there, I would suggest.

59 MR. SMITH: The construction container -- I  
60 have an open building permit on the house. Okay.

61 CHAIRPERSON KONYK: I'm not talking about the  
62 construction -- I'm talking about your friend's truck.

1           MR. SMITH: That can go any time. It hasn't  
2 been there for three weeks. It hasn't been there.

3           CHAIRPERSON KONYK: Whatever. Okay. Staff.

4           MR. SMITH: He just came back yesterday.

5           CHAIRPERSON KONYK: All right. Staff.

6           MR. AUBOURG: This is AR zoning lot. The lot  
7 is non-conforming because the width is only 110, and  
8 minimum lot size for AR zoning district is 200 feet by  
9 200 feet. However, the lot is conforming in depth. It's  
10 206. And basically like the applicant was saying, we met  
11 with him several times. We told the applicant to push  
12 the building back 100 feet as you can see the blue line  
13 over here. It's going to be able to meet the front  
14 setback. However, there's still a problem with the  
15 distance between the property lines.

16           The code requires maximum of 25 percent  
17 distance between property lines, and the applicant is  
18 proposing actually 38 percent, you know, which is that  
19 he's exceeding by 13 percent. We tried to help the  
20 applicant to redesign the garage, you know, relocate the  
21 garage in the back. And he has a proposed pool. We  
22 asked the applicant to relocate the pool so he can meet  
23 the setback. As you can see in the staff report, the  
24 applicant feels strongly that this is what he wants. He  
25 wants to go forward with that. And, you know, basically  
26 we are recommending denial due to the size of the  
27 building and due to the design option.

28           MR. SEAMAN: And also staff continues to  
29 recommend denial for all three variances because we try  
30 to be consistent in the way we administer the property  
31 development regulations. When the residence, the A frame  
32 building was constructed, the frontage was determined to  
33 be off Lawrence Road, which is why the house was set back  
34 where it is now. To try to interpret it differently  
35 today and say the frontage would come off of the street  
36 to the north...

37           MR. AUBOURG: 89<sup>th</sup> Street.

38           MR. SEAMAN: ...would be inconsistent which  
39 again staff wouldn't agree with him using it as his  
40 frontage. We also notice that the pool itself was  
41 something like Miradieu said could be relocated behind  
42 the home, and the garage could be moved closer to the  
43 house. There's also concern that the architectural style  
44 of the building wouldn't match that of this sort of Swiss  
45 structure, and we had some concerns about activities and  
46 why there would be so many cars that would need to be in  
47 a building that's larger than the home itself.

48           We feel strongly that there are other ways to  
49 redesign this so he can have a garage and keep his  
50 precious cars, the one he considers precious, within that  
51 structure.

52           CHAIRPERSON KONYK: Okay. Sir, do you want to  
53 come back forward? Let me explain something to you since  
54 you're representing yourself. There are seven criteria  
55 that have to be met in order for us to consider this  
56 variance. We have to meet all seven of the criteria. We  
57 can't meet three and not four, six and not one. Number  
58 five is grant of the variance is the minimum variance  
59 that will make possible the reasonable use of the parcel  
60 of land, building or structure. And unfortunately from  
61 what staff has said you're not falling under the  
62 definition of that criteria.

1           If there are alternatives for you to redesign  
2 this in order to not meet the variance then you're  
3 obligated to do that. We cannot issue a variance if it's  
4 not the minimum that would be required for you to use the  
5 lot. We appreciate the fact that there's things that you  
6 want to do, and there's things that you want to have, but  
7 you can't always have what you want. Another thing that  
8 I would suggest to you is that if you're going to allow  
9 other uses on the property that are going to disturb your  
10 neighbors and are also not allowed then they're not  
11 probably going to be as likely to look the other way when  
12 you ask for a variance.

13           So based on what I'm seeing here, I would like  
14 to know if you have anything else to add, and if any  
15 Board member has any questions.

16           MR. SMITH: Well, the option of moving the pool  
17 to the back yard, like I say, the neighbors behind me  
18 live in a two-story house, and the whole downstairs of it  
19 is a garage, so I'm going to have big brother. You're  
20 never going to have a bit of privacy in your pool in your  
21 back yard. And I'm sure everybody would like to be able  
22 to sit by their pool and not know that anybody could be  
23 looking out the window.

24           CHAIRPERSON KONYK: That's not unusual though.  
25 Everybody has pools in their back yard, and everybody --  
26 there's many homes that are two-story homes, and that's  
27 just a fact of life. If you want that much privacy  
28 you're going to have to get a bigger piece of property.

29           MR. SMITH: I have the largest piece of  
30 property probably within a half mile of my house. To  
31 know that I have a 100 foot front yard out on a five lane  
32 road that I can never use, I'll never be able to use it  
33 for anything, okay, is just totally -- doing that to my  
34 property is not going to make the thing look any more  
35 appealing. We talked this morning, my wife and I, about  
36 attaching it to the house. I could attach it to the  
37 house with a small breezeway. I'd lose the front looking  
38 of the house. Okay. I decorate all four sides of my  
39 house at Christmas time. I mean I enjoy making the place  
40 look real nice.

41           I could attach it to the house and then I  
42 wouldn't need a variance, and I could build a larger  
43 garage. It's not bigger than my house. My house is  
44 3,400 square feet, and I'm proposing to build a 2,400  
45 square foot garage. And then if I had a garage of that  
46 size which isn't that big, okay, there's plenty of them  
47 out in Acreage and all over the place, then there  
48 wouldn't be anything in that picture. You wouldn't see  
49 nothing but a house, a garage, and a lot of grass. And I  
50 propose to make it nicer than any house on the block,  
51 okay, and nicer than any house within a mile of my place.

52           All I'm asking for is to be able to develop it  
53 to the best of its use. To squeeze the garage close to  
54 my house and lose my frontage and then have to call my  
55 front yard a five lane highway, it's ridiculous. It  
56 would not be appealing at all. As a matter of fact, it  
57 would look more of an eyesore. So I'm just asking to be  
58 able to meet in the middle. That front setback, they  
59 talk about my A frame house, like I said I live on 89<sup>th</sup>  
60 Road South. My address is 89<sup>th</sup> Road South. I pay taxes  
61 on 89<sup>th</sup> Road South. My front door is in the back. I'm  
62 building the garage in my back yard.

1           There's like 100 hardships. Mr. Wheeler was a  
2 nice guy when he built this place, okay, but he didn't  
3 have a clue what he was doing, you know. It's not my  
4 fault that it was built where it is. I'm not even  
5 applying for the third setback for the one in the back.  
6 I don't even know what that means, you know. I'm here to  
7 try to represent myself. I got 60 feet in the back. My  
8 back yard is bigger than my whole lot from the house that  
9 I moved at and I can't even build a patio on the thing.  
10 Okay. I got a 55 x 110 foot lot, bigger than the average  
11 lot in Palm Beach County, and I can't put a roof on my  
12 front door because of the setback things.

13           I'm going to be zoned into the City of Boynton  
14 Beach within three years, okay, so I'm not even going to  
15 be in the county, and I'm probably going to be zoned  
16 residential. So it's just a matter of time, and I'm  
17 trying to do the right thing now. I'm trying to push the  
18 garage closer to the street. It's going to be uniform  
19 with anything on Lawrence Road, and I'd like to try to do  
20 it now with one effort compared to wishing I did after  
21 the five lane road, and that the road never stops. We  
22 sat up at night during the hurricane when we had a curfew  
23 and at 3:00 in the morning there were still cars going  
24 by, okay, so the traffic is like unbearable.

25           We want to put the building out there as a  
26 buffer. Okay. I don't think there's -- there's only one  
27 issue with the size of the building. The biggest issue  
28 is the front setback, and that's the reason why it's the  
29 most important to me is because I'm trying to make the  
30 most of it now. A 100 foot yard is not going to benefit  
31 us or the neighbors, and I think the neighbors would be a  
32 lot happier if the garage was closer to the street than  
33 closer to their houses.

34           Like I said, I think I fit all the criteria.  
35 Maybe I should have brought some professional help with  
36 me to...

37           CHAIRPERSON KONYK: It's just that when you  
38 have -- number five is pretty obvious, it's grant of the  
39 variance is the minimum that will make possible the  
40 reasonable use of the parcel. We can go with the  
41 minimum. Staff is telling us that there are other  
42 options that you can...

43           MR. SMITH: What logical option is there?  
44 There's no logical option that makes any sense  
45 whatsoever, you know.

46           VICE CHAIRMAN BASEHART: I think there is.  
47 What's the comprehensive plan designation for the area,  
48 do you know? Is it LR-2, MR-5?

49           MR. SMITH: There's not an open lot within two  
50 miles of me anywhere. There's nothing else going to be  
51 built...

52           MR. SEAMAN: Commercial Low 5.

53           VICE CHAIRMAN BASEHART: So he's got a  
54 commercial designation?

55           MR. AUBOURG: Commercial Low with underlying  
56 residential.

57           VICE CHAIRMAN BASEHART: So he basically comp  
58 plan wise he could rezone the property to RS.

59           MR. SEAMAN: He could request to rezone it.

60           VICE CHAIRMAN BASEHART: Well, wouldn't he --  
61 isn't it a requirement of state statute that the county  
62 allow zoning of a property be consistent with the comp



1 plan? Right now he's not consistent with the comp plan.  
2 Isn't that a statutory requirement?

3 MR. AUBOURG: Well, the underlying is 5. It's  
4 residential 5.

5 VICE CHAIRMAN BASEHART: It's residential 5,  
6 but he's zoned AR.

7 MR. AUBOURG: Yes.

8 VICE CHAIRMAN BASEHART: All right. What I'm  
9 saying is if he applied for a rezoning to RS, which is  
10 what the ULDC and the comp plan says is the consistent  
11 designation with the MR-5 category then he would likely  
12 get his rezoning to RS, wouldn't he? What are the  
13 setbacks in RS?

14 MR. AUBOURG: 25 feet.

15 VICE CHAIRMAN BASEHART: He wouldn't need any  
16 variances if he rezoned the property, right?

17 MR. AUBOURG: Yes. The applicant was informed  
18 about that.

19 MR. SMITH: He told me that it takes a year or  
20 two.

21 VICE CHAIRMAN BASEHART: That's what I'm  
22 getting at. Maybe the appropriate solution to the  
23 problem is to rezone the property to bring it into  
24 conformance with the comp plan and then with RS zoning no  
25 variances would be necessary.

26 MR. AUBOURG: Except maybe for the distance  
27 between property lines, the maximum distance between  
28 property lines.

29 MR. SEAMAN: Well, what happens also when you  
30 switch that the accessory use cannot exceed the square  
31 footage of the primary use.

32 VICE CHAIRMAN BASEHART: Well, he's saying that  
33 it does.

34 MR. SMITH: It's on the footprint.

35 MR. SEAMAN: Footprint. So that would be  
36 another hurdle for him to address, which would make the  
37 garage -- the garage could be smaller.

38 MR. SMITH: My footprint is 40-1/2 x 54 feet  
39 now.

40 MR. SEAMAN: Which is really what staff is  
41 recommending now is you create a smaller garage and move  
42 it back and meet the consistent -- the AR area out there  
43 consistently we have the 100 foot because people want to  
44 be in a residential rural type setting. I know it's  
45 expanding with new people moving in there but the idea  
46 was to have a great separation or maximum separation  
47 between structures and people to have that country  
48 feeling.

49 MR. SMITH: Well, I proposed 50, and I've  
50 already moved it to 65. The average person in that whole  
51 neighborhood within a mile in any direction is 14 feet,  
52 six times more than what anybody can even throw a rock  
53 at, you know, so I'm trying to meet them in the middle.  
54 I went to 42 x 70 to 60 x 40. I've reduced it as small  
55 as what it's going to take to get. I got two kids. I  
56 got a wife. Everybody drives. I got five cars. Do you  
57 know how much cars cost today? You have to take care of  
58 them, you know. I don't want to have to put my trailer  
59 in a storage place. Mr. Ford has got a sail boat in his  
60 back yard. It hasn't hit the water in ten years. But  
61 that's no concern about mine. He should take it to  
62 storage too. You know, we're not here to throw rocks.

1 We're here to try to make a compromise to get some -- I  
2 could have went to the zoning thing and done that, but  
3 you know what, me as a taxpayer ought to be able to go to  
4 these planning guys. They're the nicest people in the  
5 whole world but nobody's job overlaps in Palm Beach  
6 County.

7 I've been in every office on every floor in  
8 every building on this corner, okay, and they all send me  
9 to the next building to the next building to the next  
10 building. I don't know why of 30 trips that I've made  
11 here that we haven't been able to come up with a  
12 mediation way to make everybody happy. I've spent \$2,000  
13 on paper, okay, and don't even have an answer or clue on  
14 where I'm going. I live on 89<sup>th</sup> Road South. That's my  
15 mailing address. They're telling me that Lawrence Road  
16 is my frontage, you know. I have not to this day had  
17 somebody tell me where I actually live, you know.  
18 Nobody's job overlaps. It's go to this guy, go to this  
19 guy, go to this guy.

20 MR. SEAMAN: The staff tries to be consistent  
21 in the way they review projects, and that's what the  
22 staff's position is here that we're trying to be  
23 consistent and our recommendation is that you have other  
24 options whether you rezone it, whether you make a smaller  
25 garage, whether you rotate it. The pool deck, I've never  
26 seen a pool deck quite that large. That's interesting.  
27 You could actually reduce the size of the pool deck. You  
28 could rotate the pool. There are so many other options  
29 here that the facts tell staff we have no other option  
30 but to recommend denial or redesign the site.

31 MR. SMITH: It's all because of what is called  
32 zoning, the one thing that's zoning.

33 CHAIRPERSON KONYK: Well, the purpose of a  
34 variance is to help people out when there's no other  
35 options, and the problem here is that there are other  
36 options.

37 MR. SMITH: To rezone it would be the other  
38 option.

39 CHAIRPERSON KONYK: Well, all those things that  
40 Alan just said, the rezoning, making it smaller, turn the  
41 pool. I mean there's just too many options here.

42 MR. SMITH: Give me a reasonable option. How  
43 am I going to fit a pool in 30 feet? What's that going  
44 to look like?

45 CHAIRPERSON KONYK: Sir, most people put their  
46 pools in their back yard so I mean you're not going to  
47 get me on that one.

48 MR. SMITH: When I have 200 foot of front yard  
49 why would I want to put my pool in the back yard?

50 CHAIRPERSON KONYK: I'm just telling you it's  
51 common to put your pool in the back yard, not in your  
52 front yard. All these things that you're wanting to do  
53 are outside the norm, and there are other options that  
54 are less...

55 MR. SMITH: But I don't feel that I'm being  
56 unreasonable. I felt that I met everybody in the middle.

57 CHAIRPERSON KONYK: It's not about being  
58 reasonable or unreasonable. It's about what we as a  
59 Board of Adjustment are allowed to do. We can't grant  
60 variances if there's this many other options.

61 MR. SMITH: Well, what I just heard from that  
62 gentleman and these people here is that my best option

1 would have been to rezone it, okay, which wouldn't have  
2 cost me really any more money, just a bunch more time,  
3 okay, and that nobody would have had any input on it and  
4 then I could build any type of structure that I want  
5 there, so all it is is a technicality. We're talking  
6 about a technicality here. I don't know why we can't get  
7 there without...

8 CHAIRPERSON KONYK: It's not a technicality for  
9 us though because we are allowed to do what we are  
10 allowed to do, and as you said different departments of  
11 the county don't overlap. This is a perfect example of  
12 that. The Board of Adjustment, we are a quasi-judicial  
13 board. We are developed under statutes, et cetera, and  
14 the statutes say that we cannot approve a variance unless  
15 it's the minimum necessary to use the property and there  
16 are no other options, and that's the problem. I mean  
17 you're asking us to do something that we're not  
18 authorized to do.

19 MR. SMITH: But if I hired an attorney and had  
20 it rezoned, I could probably get it done.

21 CHAIRPERSON KONYK: Well, I don't know.

22 MR. SMITH: Because I don't have a clue what's  
23 the right thing here.

24 MS. CARDONE: Madam Chair, may I?

25 CHAIRPERSON KONYK: Yes.

26 MS. CARDONE: Thank you. I'm a little bit  
27 concerned that we're heading in a direction of work  
28 shopping this, and as laypeople clearing that is outside  
29 of our decision here today. We're here today to look at  
30 this criteria and determine whether to our minds it is  
31 met or it is not met. Discussion of the neighbors I  
32 don't find really to be appropriate in this because  
33 that's just not our place. I would like because we have  
34 had discussion and it is now going on to refocus on the  
35 seven criteria to my mind I do not find that the seven  
36 criteria have been met.

37 And I don't want to make a motion before the  
38 rest of the Board members have had an opportunity to  
39 question as they see fit, but after that time I would  
40 move that this be denied in accordance with staff's  
41 recommendation.

42 CHAIRPERSON KONYK: Does any other Board member  
43 have anything they'd like to say? Okay. Maybe Ms.  
44 Cardone would like to make her motion then.

45 MS. CARDONE: I would move that BA2005-00458 be  
46 denied following staff's recommendation, and for the  
47 reason that the seven criteria have not been made.

48 CHAIRPERSON KONYK: There's a motion by Ms.  
49 Cardone. Do we have a second?

50 MR. CUNNINGHAM: Second.

51 CHAIRPERSON KONYK: Second by Mr. Cunningham.  
52 All those in favor? Comment.

53 VICE CHAIRMAN BASEHART: Just under discussion,  
54 I'm going to support the motion because I think primarily  
55 the criteria that hasn't been met is there are reasonable  
56 alternatives to the granting of this variance. A  
57 variance is supposed to be the last resort if there's no  
58 other way to resolve the issue. And I think you should  
59 be able to have what you're asking for. One of the  
60 criteria is that the variances you're requesting are the  
61 minimum necessary to achieve a reasonable use of the land  
62 without even rezoning the property. You're proposing a

1 huge, a 78 foot long pool deck between your house and  
2 your garage.

3 MR. SMITH: I've reduced that to 65.

4 VICE CHAIRMAN BASEHART: Okay, to 65, but as  
5 the staff indicated if the pool were rotated and made  
6 closer to the house you could rotate the garage and you  
7 could move it a lot farther back. Maybe you'd still need  
8 a variance but it would probably be reduced to a minimum  
9 variance, which that's one of the criteria, that the  
10 variance requested is the minimum necessary to achieve  
11 the reasonable use. I think what you've presented here  
12 is exactly the way you'd like it to be, you know. I  
13 think some compromise would be necessary in order to  
14 justify the variance. I know it's a pain in the neck and  
15 I know it's a long process, you know, but the zoning of  
16 your property is inconsistent, you know, with the nature  
17 and the character of the area.

18 The nature and character of the area is much  
19 smaller properties with 7-1/2 foot side setback  
20 requirements and 25 foot front setback requirements, and  
21 based on the designation you have for that property you  
22 could rezone that property and your setback problems  
23 would all go away. Then the only problem you're dealing  
24 with is the fact that your accessory structure is bigger  
25 than your principal structure, you know, but even then  
26 maybe you'd be back here with one variance.

27 One other thing you could consider, the  
28 neighbors may not like it, but staff says that actually  
29 part of the property or is it the whole property is  
30 designated commercial low in the comp plan. This could  
31 be rezoned to be a commercial property.

32 MR. SMITH: I'd be loaded. This is Palm Beach  
33 County.

34 VICE CHAIRMAN BASEHART: So for those reasons,  
35 I think you should be able to get maybe not exactly what  
36 you're asking for here but something pretty close to it,  
37 and I think you could do that without needing any  
38 variances. The problem is now you would have to leave  
39 the property in the condition that it is now for a year.  
40 Well, they say on paper you can do it in six months. You  
41 can't, you know. This would be a pretty straightforward  
42 rezoning. I think you're probably looking at eight or  
43 nine months though, you know.

44 MR. SMITH: You know, we're a family. I'm a  
45 sole provider. I've been married for 30 years, you know.  
46 All I'm trying to do is the right thing for everybody,  
47 you know, and to ask for -- everybody wishes they had a  
48 2400 square foot garage. There's a picture you have  
49 there with the neighbor's house across from me. You  
50 can't get a motorcycle in his garage and it's a two-car  
51 garage. People tend to collect things. It's going to  
52 take a two-car garage to get my wife's Christmas lights  
53 in there. Okay. That's what the white container is.  
54 Three-quarters of it is Christmas lights.

55 You know, so I don't know how to do this. I  
56 was just trying -- I've been, like I said, I've been in  
57 every office in every building collecting paper.

58 CHAIRPERSON KONYK: Okay. We have a motion and  
59 a second. All those in favor?

60 BOARD MEMBERS: Aye.

61 CHAIRPERSON KONYK: Opposed?

62 (No response)

1                   CHAIRPERSON KONYK: Motion carries unanimously.

2  
3  
4  
5  
6  
7

8                   CHAIRPERSON KONYK: The next item on the agenda  
9 is SD-126, Barbara Shephard requesting variances from the  
10 requirements that a sewage collection/transmission system  
11 with appropriate service connection to each lot shall be  
12 provided. Your name for the record?

13                   MS. SHEPHARD: Barbara Shephard.

14                   MR. VERASKI: And I'm John Veraski, her fiancé.

15                   CHAIRPERSON KONYK: Okay. Staff is  
16 recommending denial on this issue. Could the staff read  
17 the legal?

18                   MR. CUFFE: The petitioner, Barbara Shephard,  
19 requesting variances from the requirements that, A, a  
20 sewage collection/transmission system with appropriate  
21 service connection to each lot shall be provided for  
22 connection to a central sewer system, and, B, each street  
23 providing access to subdivision lots shall have a minimum  
24 right-of-way width of 50 feet. Requirements are set  
25 forth in the Unified Land Development Code, A, Article  
26 11.E.5.B and Article 11.E.2.A.2, Table 11.E.2.A-2, Chart  
27 of Minor Streets. Location, east side of Colbright Road,  
28 0.44 miles north of Lantana Road in the AR Zoning  
29 District.

30                   CHAIRPERSON KONYK: Thanks. You just witnessed  
31 a hearing, and so you probably know that you have to meet  
32 the seven criteria, and you have to demonstrate to us why  
33 you've met it, so I'll give you the opportunity to do  
34 that.

35                   MR. VERASKI: The basic...

36                   CHAIRPERSON KONYK: Could you speak into the  
37 mike, please?

38                   MR. VERASKI: The lot is a 2-1/2 acre lot, and  
39 there are quite a few one-acre lots on that street so  
40 it's nothing unique in terms of the lot size. The main  
41 thing is that basically the health department, all they  
42 want is one acre and they're satisfied in terms of sewer  
43 and well -- I mean septic tank and well. That was the  
44 whole creation they allowed it. These existing lots were  
45 there, and as I said there are a lot of one-acre lots  
46 around us and being utilized on septic systems and wells.  
47 So it would not be granting a special privilege when  
48 everybody else in the area has it.

49                   And all the streets to the west of us, first,  
50 second and third road, all one-acre lots, and they're on  
51 septic. They just got their first water. Water in this  
52 area, and the main thing is we have to do a half mile to  
53 get a sewer line down to our property. And we were  
54 advised by the engineering department to apply for this  
55 variance. What was the gentleman's name?

56                   MS. SHEPHARD: Adam Galecki.

57                   MR. VERASKI: There's no projection for any  
58 kind of sewer lines going down this road in the near  
59 future or anything else, just a half mile distance and  
60 it's outside their criteria range. And the same thing  
61 would apply to the water. Undue hardship. Okay. Again  
62 the hardship would be in order to put it in, it would

1 cost \$120,000 plus the cost of taking the thing all the  
2 way down to our property. And we want the utilize the  
3 land if possible. The minimum variance we're asking for  
4 is we want to have the septic tank system and the well,  
5 which we have on our property, everybody around us has  
6 it, and there are quite a few one-acre lots that are  
7 built this way.

8 And we had applied for this land subdivision  
9 about four or five years ago. We were granted it -- we  
10 were almost granted it, but after everything else, after  
11 four months of meeting with every department -- and I'm  
12 an architect. I know the questions to ask. Then they  
13 come up with, oh, you're in a rural area -- I mean,  
14 excuse me, what's the other one? Urban. You're in an  
15 urban area. This is after the whole process we went  
16 through. Twenty people cannot tell us what we -- 20  
17 meetings could not tell us that we could not do it in the  
18 first place.

19 We tried to get -- so now we're asking for the  
20 exception first for septic tank and well because then we  
21 apply for the variance, go back for the variance  
22 subdividing of our property. In fact, the head of the  
23 planning division was so embarrassed that he returned  
24 \$1,400 of the \$1,600 that we applied for the application.

25 So basically again we only use the systems  
26 there in the area that has it. This area is more rural  
27 than urban. These two blocks are very unique. They have  
28 large lots, small lots, but it's a one-mile long dead end  
29 streets. Friendly and Colbright are both dead end  
30 streets, and they're never going to be developed past  
31 that point. We'd like to utilize the land in a way we  
32 can. And the variance for the front property leaving the  
33 40-foot wide instead of 50 foot because the whole street  
34 is 40 foot and it meets these criteria, and it is a dead  
35 end street so traffic is minimal.

36 CHAIRPERSON KONYK: Okay. Does staff have  
37 their report ready?

38 MR. CUFFE: Yeah. Staff is recommending denial  
39 of the variances requested based on the lack of  
40 demonstration of meeting the seven standards for granting  
41 of a variance. As far as uniqueness, the lot is no  
42 different from any other grand-fathered single family lot  
43 in the area that would be created by sale and to separate  
44 ownership prior to the 1973 subdivision regulations and  
45 now being proposed to subdivide without provision of the  
46 required infrastructure. The existing 2-1/2 acre lot is  
47 similar in size to actually the majority of the lots  
48 currently existing along Colbright Road.

49 There are a few lots of an acre, acre and a  
50 quarter, but the majority of the lots are actually 2-1/2  
51 acres plus. The condition or the standard that the  
52 condition not be self created, we feel the standard is  
53 not met since the variances were requested based on the  
54 applicant's desire to subdivide an existing grand-  
55 fathered lot without providing for connection to public  
56 sewer and providing the required access required by code  
57 and other infrastructure in accordance with subdivision  
58 code requirements which have been in effect for years  
59 prior to the applicant's purchase of the property.

60 We feel that it would be giving a special  
61 privilege if the variances were granted, and granting of  
62 the variance would allow the applicant to create an

1 additional lot relying on septic tank systems for  
2 wastewater disposal in the urban service area and have  
3 access to a street not meeting the county subdivision  
4 street standards for width or drainage for pedestrian  
5 access. Similar subdivisions would not be allowed  
6 without other variances -- without variances.

7 And as far as it being an undue hardship,  
8 denial of the variance being an undue hardship, we feel  
9 the standard is not met because while requiring  
10 conformance with the subdivision for code requirements  
11 the proposed lot may be precluded from subdividing  
12 there's nothing preventing the applicant from using the  
13 lot as it currently exists as it was grand-fathered as a  
14 2-1/2 acre lot.

15 MS. SHEPHARD: They have a church and also a  
16 group home on the street.

17 MR. VERASKI: And there's more than a few one-  
18 acre, one and a quarter acre lots, at least five or six  
19 or seven just going down to our house. So a few means  
20 two. There's quite a few more than that. And also the  
21 county has no projection to put a sewer line down that  
22 road. We were told that.

23 VICE CHAIRMAN BASEHART: I've seen people get  
24 in this dilemma in a lot of cases. There's a disparity  
25 in the requirements of the subdivision code versus  
26 environmental control rule number one.

27 MR. CUFFE: If I may speak to that. The  
28 subdivision regulations go beyond the health -- the  
29 health department regulations have to deal with existing  
30 lots with providing for on-site treatment for existing  
31 lots. The subdivision regulations deal with the creation  
32 of new lots, and the intent of the subdivision code is  
33 not to create additional lots relying on septic tank in  
34 areas that are part of the urban service area.

35 VICE CHAIRMAN BASEHART: Partially -- I mean  
36 the health department standard says for a home to be  
37 built with well and septic they have to have at least an  
38 acre per lot. If this property were located on an  
39 existing 50-foot wide paved roadway meeting county  
40 standards, you know, and they wanted to split the  
41 property into two lots there would be no issue with the  
42 health department.

43 MR. CUFFE: There would not be an issue with  
44 the health department. There would be an issue with the  
45 subdivision regulations.

46 VICE CHAIRMAN BASEHART: There would still be  
47 an issue with you so basically what I'm saying is there's  
48 a disparity. I mean I haven't seen anything in the  
49 intent language in the code or of environmental control  
50 rule number one, to say that environmental control rule  
51 number one is only supposed to be addressing the existing  
52 situation.

53 Basically the health department has a one-acre  
54 standard, and you have in the subdivision code an acre  
55 and a half standard.

56 MR. CUFFE: The reason being that the health  
57 department has to address existing lots. The subdivision  
58 regulations address the creation of new lots.

59 CHAIRPERSON KONYK: I think there's existing  
60 lots that are on well and septic that are less than one  
61 acre as well.

62 MR. CUFFE: Yes, most definitely.

1           CHAIRPERSON KONYK: So if that was the case why  
2 wouldn't the health department criteria address that if  
3 you're saying it addresses existing lots?

4           MR. CUFFE: I'm saying that the health  
5 department standards have to be able to address existing  
6 lots.

7           CHAIRPERSON KONYK: We have existing lots...

8           MR. CUFFE: ...opposed to creation of new lots.

9           CHAIRPERSON KONYK: Okay. I understand that.  
10 So if that's the case there's quarter acre lots that have  
11 well and septic so why wouldn't the health department  
12 standard be quarter acre if it's only to address  
13 existing?

14          MR. CUFFE: No new subdivisions have been  
15 created on quarter-acre lots with well and septic tank or  
16 with...

17          VICE CHAIRMAN BASEHART: I think what the  
18 Chairman is saying is that under the health department  
19 rules if you go to the health department with a half acre  
20 lot and you need well and septic, and you can show that  
21 it's an existing lot pre-existing the code they will let  
22 you put the well and septic on a half-acre lot.

23          MR. CUFFE: And they may very well but that  
24 doesn't involve the subdivision of a property.

25          VICE CHAIRMAN BASEHART: I understand that.

26          MR. JACOBS: I think the whole concept of the  
27 subdivision rules is that if you're going to create new  
28 lots certain standards apply, and it seems to me in this  
29 case it doesn't.

30          VICE CHAIRMAN BASEHART: Also one thing that  
31 hasn't been discussed, I mean there's three things that  
32 you got to look out for when you want to subdivide your  
33 property, the utility situation, which we've addressed,  
34 the roadway meeting the county standards issue, which  
35 we've addressed, and also you can't subdivide unless you  
36 have legal positive outflow. What's the situation there?  
37 Are you adjacent to a canal?

38          MR. VERASKI: Yes. The road has got catch  
39 basins and pipes going down to a canal. It has all the  
40 drainage on the street.

41          VICE CHAIRMAN BASEHART: So the road section  
42 may be built to county standards then even though the  
43 right-of-way isn't, do you know?

44          MR. CUFFE: No. The road was done as a Street  
45 Improvement Program. It's not built to subdivision  
46 standards. There's no pedestrian access, and as far as  
47 the existing drainage goes it was minimum that was  
48 necessary for a Street Improvement Program.

49          VICE CHAIRMAN BASEHART: Okay.

50          MR. JACOBS: What is everybody looking at me  
51 for? Madam Chair, I move that the request for a variance  
52 be denied.

53          CHAIRPERSON KONYK: We have a motion by Mr.  
54 Jacobs. Do we have a second?

55          MS. CARDONE: Second.

56          CHAIRPERSON KONYK: Second by Ms. Cardone. All  
57 those in favor?

58          BOARD MEMBERS: Aye.

59          CHAIRPERSON KONYK: All those opposed?

60          (No response)

61          CHAIRPERSON KONYK: It looks like the motion  
62 carries unanimously. I'm sorry, your variance has been



1 denied.

2 MR. VERASKI: Let me ask you a question, if I  
3 could.

4 CHAIRPERSON KONYK: Sure.

5 MR. VERASKI: The reference to the engineering  
6 on this thing if nothing is ever going to be done in  
7 terms of putting sewer and water in the area, is there  
8 any special zoning that could be put in there to create  
9 something?

10 VICE CHAIRMAN BASEHART: Generally what happens  
11 is that issue is left to the development sector. If  
12 somebody -- if I have a piece of property and I want to  
13 subdivide it, it's my responsibility if the improvements  
14 necessary aren't planned to provide them.

15 MR. VERASKI: That's why we came to you now to  
16 try to get the first part -- the second part done first  
17 before we subdivided. That's what we're trying to find  
18 out.

19 CHAIRPERSON KONYK: What are you trying to find  
20 out about bringing water and sewer to that area, is that  
21 what you're asking?

22 MR. VERASKI: Yeah, well, the question is...

23 CHAIRPERSON KONYK: I'm on the Water Utility  
24 Advisory Board, so let me answer that for you. We don't  
25 seek properties to hook them up to water and sewer. The  
26 properties have to seek us. So if you were to gather  
27 your neighbors together and maybe get a consensus among  
28 them and have the water utility come out and discuss it  
29 with your community you could possibly, you know, get  
30 some action going as far as getting water and sewer back  
31 to the area, but it would be a situation where the  
32 residents would have to approve it and they would have to  
33 pay for it.

34 MR. VERASKI: Well, they're going to reject  
35 that.

36 CHAIRPERSON KONYK: The homeowners would?

37 MR. VERASKI: Yeah, because you have frontage  
38 on lots, the cost is astronomical for water and sewer.  
39 Just the water alone they were proposing it -- it came to  
40 like \$48,000 per lot just for water.

41 CHAIRPERSON KONYK: Right.

42 MR. VERASKI: Not even sewer lines.

43 VICE CHAIRMAN BASEHART: I think basically if  
44 the majority or the entire neighborhood decided they  
45 wanted to change the character of the area and actually  
46 make everybody eligible to split their two acres into  
47 one-acre lots, you know, then collectively they'd want to  
48 dedicate right-of-way to make the roadway 50 feet.

49 MR. VERASKI: The majority of the lots, the  
50 houses are centered. We're unique though. Our house is  
51 to one side of the property. That's uniqueness in terms  
52 of subdividing the property.

53 VICE CHAIRMAN BASEHART: Right.

54 MR. VERASKI: The majority of the houses are --  
55 we're talking about a half a million to a million dollar  
56 houses and they're all centered on their property.

57 CHAIRPERSON KONYK: The water utility does have  
58 a program where they give people a 20-year assessment to  
59 pay that back. I don't know if you're aware of that.  
60 You might want to look into it. You may be surprised.  
61 Your neighbors may not be satisfied with the quality of  
62 their water.

1                   MS. SHEPHARD: They turned it down.  
2                   MR. VERASKI: They turned it down already.  
3 That's why we're here because we have no recourse because  
4 the majority of the people have to agree to it and  
5 they're not.  
6                   CHAIRPERSON KONYK: This is your home where you  
7 live?  
8                   MR. VERASKI: Yes.  
9                   CHAIRPERSON KONYK: And you want to subdivide  
10 it and build another house?  
11                   MR. VERASKI: Yes.  
12                   CHAIRPERSON KONYK: Okay.  
13                   MR. VERASKI: It's got a barn on it and we want  
14 to connect the whole thing together and make a usable  
15 house and everything else because the barn can't be used  
16 other than a horse barn right now, and it doesn't meet  
17 any of the subdivision requirements in terms of making it  
18 a guest house or anything else because you have the  
19 setback is 100 feet from the rear and front property  
20 lines.  
21                   CHAIRPERSON KONYK: Okay.  
22                   MR. VERASKI: Thank you very much.  
23                   CHAIRPERSON KONYK: Sorry. Let the record  
24 reflect I failed to mention that Mr. Mathis left at some  
25 point during the meeting. I'm not quite sure when.  
26                   VICE CHAIRMAN BASEHART: Is that it for regular  
27 business?  
28                   CHAIRPERSON KONYK: Uh-huh. It appears that  
29 our meeting has been adjourned, and we will move after a  
30 three or four-minute break to the workshop.  
31                   (Whereupon, the meeting was adjourned.)  
32  
33                   R.O'B/I