

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, October 20, 2005
9:02 a.m. -9:40 a.m.
100 Australian Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Ms. Chelle Konyk, Chairperson

Mr. Robert E. Basehart, Vice Chairman

Ms. Nancy Cardone

Mr. William Sadoff

Mr. Joseph Jacobs

Leonard Berger, Assistant County Attorney

Alan Seaman, Senior Site Planner

David Cuffe, Civil Engineer II, Land Development

Oscar Gamez, Site Planner I

Timothy Sanford, Site Planner I

Juanita James, Zoning Tech

Annette Stabilito, Secretary

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P R O C E E D I N G S

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CHAIRPERSON KONYK: Welcome to the October 20th, 2005, Board of Adjustment meeting. We'll start the meeting with the roll call and Declaration of Quorum.

MS. STABILITO: Mr. William Sadoff?

MR. SADOFF: Here.

MS. STABILITO: Mr. Raymond Puzzitiello?

(No response.) MS. STABILITO: Mr. Bart Cunningham?

(No response.)

MS. STABILITO: Chairperson, Ms. Chelle Konyk?

CHAIRPERSON KONYK: Here. MS. STABILITO: Vice Chairman, Mr. Robert Basehart?

(No response.)

MS. STABILITO: Ms. Nancy Cardone?

MS. CARDONE: Here.

MS. STABILITO: Mr. Joseph Jacobs?

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch?

(No response.)

MS. STABILITO: And Mr. Donald Mathis?

(No response.)

CHAIRPERSON KONYK: If you would all join me in the opening prayer.

May we approach today's business as tasks of faith to do our best within our power to provide positive leadership on behalf of our community and those who live and work here, and that our decisions meet the standards of divine compassion for all. Amen.

Next is the Pledge. If everyone would stand for the Pledge.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON KONYK: I have before me proof of publication in the Palm Beach Post, October 2nd, 2005.

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

Items on the consent agenda are items that are recommended for approval by staff either with or without conditions and the applicant agrees with the conditions.

If there's opposition from the public or a Board member does not feel the item warrants or a Board member feels the item warrants a full hearing or the applicant does not agree with the conditions, that item will be reordered to the regular agenda.

After we vote on the consent agenda, those that have their item approved are free to leave. I don't know -- Annette, are the letters ready or are they going to be mailed? The letters will be mailed, so you'll get them in the mail.

Next item on the agenda -- I mean the next part of the meeting is the regular agenda.

Items on the regular agenda are those that have been pulled from the consent, Alan, or items that have opposition from the public.

Again, items on the regular agenda, the item will be introduced by staff. The applicant will have an opportunity to give their presentation. The staff will then give their presentation. At this point we'll open to the public for comments from the public. After the public portion of the hearing is closed, we'll vote on the item.

Everyone received a copy of the minutes. Does anybody have any corrections or additions?

(No response.)

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

MR. JACOBS: So moved.

CHAIRPERSON KONYK: Motion by Mr. Jacobs.

MR. SADOFF: Second.

CHAIRPERSON KONYK: Second by Mr. Sadoff.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Motion carries unanimously.

Remarks of the Zoning Director.

MR. SEAMAN: There are none at this time.

CHAIRPERSON KONYK: Do we have any changes, significant changes to the agenda?

MR. SEAMAN: Yes, we have corrections on page 65 and 70, so if you'll turn to page 65 first, if I can find it.

On 65, it's the cover sheet for Petition 1318, and under the situs address, we need to strike 4795 61st Street, South Lake Worth, 33463, that's erroneous. And the owner name and address of Henry Walpole, 4795 61st Street, South Lake Worth, Florida, should be stricken and changed to K. Hovnanian T&C Homes of Florida, LLC, 11275 Gateway Boulevard, Suite 101, Boynton Beach, Florida 33463.

And then if you'll turn to page 70 of your agenda, under the Code section.

CHAIRPERSON KONYK: Alan, is that the correct zip code for Boynton Beach?

UNIDENTIFIED SPEAKER: No. It's 33426.

CHAIRPERSON KONYK: 33426, okay, thanks.

MR. SEAMAN: Is that the applicant speaking?

UNIDENTIFIED SPEAKER: Yes.

MR. SEAMAN: Okay. 33426. Thank you for correcting me.

CHAIRPERSON KONYK: Let the record reflect that Mr. Basehart has arrived. You haven't missed anything.

MR. SEAMAN: And on page 70 of your staff report at the very top where you see Code section, where it reads -- the one, two, three -- the third sentence or small paragraph where it reads 2.B.3.G.2, time extension of condition 1, that entire condition needs to be stricken.

The condition that is supposed to be there reads, "By October 21st, 2005, or prior to DRO

certification, the applicant shall ensure the BA conditions are shown on the certified site plan."

That is hereby amended to read, "By October 21st, 2006, or prior to DRO certification, the applicant shall ensure the BofA conditions are shown on the certified site plan."

And under lot area, it should be -- instead of 9.86 acres, it should be 46 acres. Thank you, EPZB, those are emerging problems

CHAIRPERSON KONYK: Thank you. If anyone in the audience plans to speak on any item today, if you could stand now and be sworn in.

MS. SPRINGER: Okay. Raise your right hand everyone, please.

(Whereupon, the speakers were sworn in by Ms. Springer.)

MR. SEAMAN: Madam Chair, there is one postponement when you --

CHAIRPERSON KONYK: That's really what I was looking for. I was looking for the condition changes when we got to the item, but that's okay. Which one's postponed?

MR. SEAMAN: 2005-1304 is postponed 30 days to November 17th, pending a survey issue.

CHAIRPERSON KONYK: Is that by right?

MR. SEAMAN: It's by right.

MR. SADOFF: 1304?

CHAIRPERSON KONYK: Postponed. Okay. Thank you.

CHAIRPERSON KONYK: The first item on consent is BofA2005-603, Samuel Moore, agent for Estates of Boynton Waters, petitioner, and Palm Isle II, to allow an existing hedge to exceed the maximum height requirement.

Is the applicant present? If you would come forward and state your name.

MR. MOORE: Samuel A. Moore, Jr.

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

MR. MOORE: I do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are 14 letters, six in approval, six in disapproval, two needing clarification. Those who disapproved just requested that the hedge be kept at 12 feet rather

than the 20 foot the variance is presenting.

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

(No response.)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You can have a seat.

MR. MOORE: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. The ficus hedge shall not exceed a maximum height of 20 feet, and shall be kept trimmed/clipped in a "formal fashion" displaying thriving foliage from ground to top of hedge. (ON-GOING: LANDSCAPE: ZONING)
2. By **January 20, 2006**, the applicant shall schedule an appointment with a landscape inspector (561-233-5037) for a site inspection to ensure the ficus hedge has been reduced in height down to 20 feet. (DATE: LANDSCAPE: ZONING)

CHAIRPERSON KONYK: Next item is BofA2005-01100, Tim McAfee, agent for Carol Liatsos, owner, to allow an existing single family dwelling to encroach into the required side interior setback.

Applicant present? Step forward, give your name for the record.

MR. McAFEE: My name is Tim McAfee.

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

MR. McAFEE: Yes, I do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Five in approval.

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

(No response.)

CHAIRPERSON KONYK: Seeing none, this item will remain on consent. You can have a seat.

MR. McAFEE: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By **10/20/2006**, 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. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (10/20/2007), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-1217, Dror Tregar, agent for Anya Group, to allow an existing single family dwelling.

Is the applicant present, and if you would step forward and your name for the record.

MR. KNIGHT: My name is Jerry Knight, and I represent the applicant.

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

MR. KNIGHT: Yes, we do.

CHAIRPERSON KONYK: Are there any letters?

MR. SEAMAN: We have three, one in approval and two for clarification.

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

(No response.)

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

MR. MIKULEC: Yes, ma'am.

CHAIRPERSON KONYK: Is your opposition directly related to the variance or does --

MR. MIKULEC: It is.

CHAIRPERSON KONYK: Okay. Then we will pull this item.

MR. MIKULEC: But I'm asking for an adjournment on the grounds that it was improperly posted and it wasn't posted until yesterday correctly.

CHAIRPERSON KONYK: Okay. We're going to pull this item and put it on the regular agenda so when we get to that we will ask for your comments.

MR. MIKULEC: Well, the point is, ma'am, there are not -- the people are not here to defend that right now, and the point was that --

CHAIRPERSON KONYK: Sir, we'll discuss that when this is reordered to the regular agenda. It'll be the first item heard.

CHAIRPERSON KONYK: Okay. Board of

Adjustment Time Extension 2005-1269.

Applicant, your name for the record?

MS. BROWN: Christy Brown.

CHAIRPERSON KONYK: Any opposition, Alan?

MR. SEAMAN: Three in approval.

CHAIRPERSON KONYK: This is a time extension. This wasn't noticed.

MR. SEAMAN: Oh, excuse me. Twice, okay. There will be no letters on this one.

CHAIRPERSON KONYK: Okay. I'm just double-checking.

Any Board member feel this item does not warrant a time extension.

(No response.)

CHAIRPERSON KONYK: Seeing none, this item will remain on the consent. When we vote you can leave.

MS. BROWN: Thank you.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on **October 21, 2005**, one year from the approved date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The development order for this particular variance shall lapse on **October 21, 2006**, one year from the approved date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **October 21, 2005**, the applicant shall obtain a building permit for the proposed addition in order to vest the variance approved pursuant to BA-2004-00431. (DATE: **MONITORING-BLDG PERMIT**)

IS HEREBY AMENDED TO READ:

1. By **October 21, 2006**, the applicant shall obtain a building permit for the proposed addition in order to vest the variance approved pursuant to BA-2004-00431. (DATE: **MONITORING-BLDG PERMIT**)
2. Prior to the issuance of a "Building Permit", the applicant shall submit both the Board of Adjustment letter and a copy of the approved survey/site plan to the Building Division. (DATE: **MONITORING-BUILDING**)
3. The existing hedges shall be maintained at a height between 6 and 10 feet. (**ON-GOING**)

CHAIRPERSON KONYK: BofA2005-01299, James

& Tammy Devondry-Smith, owners, to allow an existing detached garage.

Applicant?

MS. DEVONDRY-SMITH: Tammy Devondry-Smith.

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

MS. DEVONDRY-SMITH: Yes.

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Three in approval.

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

(No response.)

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

Does your opposition directly relate to the variance itself, or is it another issue?

MS. GORENSEN: I would like to approve it, but with some conditions.

CHAIRPERSON KONYK: Okay. Reordered to the second item on the regular agenda.

You can have a seat. You're on the regular agenda now.

CHAIRPERSON KONYK: BofA2005-01301, Chantale & Guerda -- I don't know how to say your name. To allow an existing room addition.

Applicant, if you could step forward and give your name for the record.

Name for the record?

MS. JEUDI: Chantale Jeudi.

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

MS. JEUDI: Yes.

CHAIRPERSON KONYK: Are there any letters?

MR. SEAMAN: Five in approval.

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

(No response.)

CHAIRPERSON KONYK: Any members of the public in opposition?

(No response.)

CHAIRPERSON KONYK: Seeing none, you may have a seat. This item will remain on consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By **01/20/2006**, 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. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (10/20/2006), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-01302, Kurt Oakley, to allow a proposed pool to encroach into an easement.

Applicant, your name for the record?

MR. OAKLEY: Kurt Oakley.

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

MR. OAKLEY: I agree, but I don't understand No. 3.

CHAIRPERSON KONYK: Okay. Tell him No. 3.

MR. SEAMAN: Condition No. 3, by 10/20/2006, the applicant shall amend the approved site plan petition, Exhibit 24, through the DRO section to reflect the variance approval pursuant to BA-1302.

This is part of a Planned Unit Development project, and any changes that take place to this need to be noted on the certified DRO site plan. So you simply make application, and it's fairly routine.

MR. OAKLEY: Okay.

MR. SEAMAN: And after the meeting we can direct you to where to go and make that application.

MR. OAKLEY: Perfect. Thank you.

VICE CHAIRMAN BASEHART: This is for --

CHAIRPERSON KONYK: Go ahead. You have a question?

VICE CHAIRMAN BASEHART: Well, for a pool? I mean, how would a pool be reflected on the PUD approved site plan?

MR. SEAMAN: Well, we like any site plan that has a variance, we like to put that on the overall site plan.

VICE CHAIRMAN BASEHART: All right. So it will be a note is all it is.

MR. SEAMAN: Yeah, all it is is a note.

VICE CHAIRMAN BASEHART: Okay.

MR. SEAMAN: It would just be the result

letter on a sticky back put on this plan so in the future they'll know there was a variance on that particular site for a pool.

VICE CHAIRMAN BASEHART: Okay.

MR. SEAMAN: It's just perfunctory.

CHAIRPERSON KONYK: It's what?

MR. SEAMAN: Perfunctory, keeping records.

CHAIRPERSON KONYK: Okay, thanks.

VICE CHAIRMAN BASEHART: I thought he said it was just for fun.

CHAIRPERSON KONYK: No, I heard the word perfunctory. I just haven't heard it --

MR. SEAMAN: If that's your idea of fun, Bob, that's okay.

CHAIRPERSON KONYK: Any letters?

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

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

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **10/20/2006**, 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. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**10/20/2006**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **10/20/2006**, the applicant shall amend the Approved Site Plan petition (79-205 Exhibit 24) through the DRO section to reflect the variance approval pursuant to BA-2005-1302. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-01303, MDM

Services, agent for BP products, to allow an existing convenience store and car wash to encroach into the required side and rear setbacks.

Is the applicant present?

MR. YOUNG: Yes, I am.

CHAIRPERSON KONYK: Could you come forward and give us your name for the record?

MR. YOUNG: Kevin Young, on behalf of MDM Services.

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

MR. YOUNG: Yes, I do.

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response.)

CHAIRPERSON KONYK: Any member of the public here to speak in opposition to this item?

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. The property owner shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan certified by the DRC. The final site plan shall be consistent with the Site Plan, Exhibit 38, shown to the Board of Adjustment at the October 20, 2005 hearing. (BLDG PERMIT-ON-GOING)
2. The setback and hours of operation variances are limited to the use and structures shown on the Site Plan, Exhibit 38, presented to the Board of Adjustment at the October 20, 2005, public hearing. Any new use or re-design of the site shall require BA approval. (ON-GOING)

CHAIRPERSON KONYK: Next item is postponed.

BofA2005-01312, Siemon & Larsen, agent for Stewart Davis, to allow a proposed single family dwelling to exceed the maximum building coverage. Name for the record?

MR. MESSINGER: Todd Messinger, Siemon & Larsen, on behalf of the applicant.

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

MR. MESSINGER: Yes, we do.

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Three. One in support, two disapproval, but they give no reason.

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

CHAIRPERSON KONYK: Any member of the public here to speak against this item?
(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **08/20/2006**, the applicant shall provide the Building Division with a copy of the Board of Adjustment Result Letter and a copy of the Site Plan presented to the Board, simultaneously with the building permit application. (BLDG: DATE: ZONING)
2. Prior to the Development Order expiration (**10/20/2006**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **12/20/2005**, the applicant shall amend the Approved Site Plan petition (86-25 A Exhibit 95) through the DRO section to reflect the variance approval pursuant to BA-2005-1312. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-01314, Juran Consulting, agent for Athena Vista, owner, to allow an existing right-of-way buffer to be less than the required 25 minimum.

Your name for the record?

MS. JURAN; Kim Juran, for Athena Vista.

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

MS. JURAN: I do.

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

CHAIRPERSON KONYK: Any member -- I mean any Board member feel this item warrants a full hearing?

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/20/2005**, the applicant shall amend the Approved Site Plan petition (84-130 J Exhibit 138) through the DRO section to reflect the variance approval pursuant to BA-2005-1314. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: Next item on consent is BofA2005-01315, Frank & Cheryl Rose, to allow a proposed addition to encroach into the required front and side setback.

Your name for the record?

MR. ROSE: Frank Rose.

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

MR. ROSE: Yes, I do.

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are three. Two in support, one in disapproval, they're afraid of a negative aesthetic affect to the community.

CHAIRPERSON KONYK: So it doesn't substantially relate to the variance, okay.

Any Board member feel this item warrants a full hearing?

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/20/05**, the applicant shall move the existing shed outside of the 6 feet utility easement at the rear of the property and 5 feet from the side interior

setbacks. The applicant shall call the Code Enforcement Department (561-233-5500) to schedule an inspection to satisfy this condition. (CODE ENFORCEMENT: DATE: ZONING)

2. By **10/20/2006**, 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. (BUILDING: DATE: ZONING)
3. Prior to the Development Order expiration (**10/20/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-01316, Gary & Renee Tong, owners, to allow an existing solid roof screen enclosure to encroach into the side interior setback.

Your name for the record?

MR. TONG: Gary Tong.

CHAIRPERSON KONYK: Staff has recommended approval with four conditions. Do you understand and agree with those?

MR. TONG: Yes, except for the first condition. It appears I already missed a date.

CHAIRPERSON KONYK: Okay. Let's look at that.

MR. TONG: It says 05, 1/20/05.

CHAIRPERSON KONYK: I'm sure that was an error.

MR. TONG: Yeah, I thought so.

CHAIRPERSON KONYK: So let's correct that.

MR. SEAMAN: So that's condition No. 1, by 01/20/2005, the applicant shall obtain a building permit. Needs to be changed to, by 01/20/2006, the applicant shall obtain a building permit to install a privacy fence along the south property line. The fence shall be installed at the maximum allowable height according to the ULDC.

CHAIRPERSON KONYK: Is this in Palm Beach County that you're supposed to get a building permit by January, 2006? Just curious.

MR. SEAMAN: Absolutely. For a fence permit?

CHAIRPERSON KONYK: Oh, it's a fence?

MR. SEAMAN: Un-huh.

VICE CHAIRMAN BASEHART: Yeah, those take about six months.

MR. SEAMAN: A fence? I think you can get it in perhaps less than two weeks.

VICE CHAIRMAN BASEHART: Okay.

CHAIRPERSON KONYK: Kind of like hurricane shutters?

MR. SEAMAN: Well, if they're aluminum there might be a problem.

CHAIRPERSON KONYK: So do you think that he's got sufficient time or can you give him a little bit more or what's the deal?

MR. TONG: Considering the holiday season is coming up.

MR. SEAMAN: The fence is already up, he's in violation, so he just needs to file for the permit.

CHAIRPERSON KONYK: Well, I don't have any doubt that he can have his fence installed by January, I had the doubt that he could have the permit that quick.

MR. SEAMAN: I'm sure he can get it by the 20th of January. He could apply for it today.

VICE CHAIRMAN BASEHART: The condition is to apply or to have the permit?

MR. TONG: Today is impossible --

MR. SEAMAN: Obtain a building permit.

CHAIRPERSON KONYK: Obtain, that means have it.

MR. SEAMAN: He can apply today, and I'm sure he'll have it by January 20th.

CHAIRPERSON KONYK: I just don't want to see him come back for something silly like that. Can we -- all right. Fine.

MR. SEAMAN: I mean, this is October.

MR. TONG: I mean, today is not possible, I'm here, so.

MR. SEAMAN: Well, if he files today, you got October, November, December and part of January.

CHAIRPERSON KONYK: Okay.

VICE CHAIRMAN BASEHART: If you have a problem getting the permit, go see Alan.

CHAIRPERSON KONYK: Yeah, he'll help you.

MR. TONG: What's your name, sir?

MR. SEAMAN: Oscar Gamez.

CHAIRPERSON KONYK: And use that big word, perfunctory.

MR. SEAMAN: We'll help you all we can, just let us know, but there shouldn't be an issue for that.

MR. TONG: Okay. Thank you.

CHAIRPERSON KONYK: All right. So then do we have any letters?

MR. SEAMAN: There are nine letters. Eight in approval, and one disapproval, but gave no reason.

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

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **01/20/2006**, the applicant shall obtain a building permit to install a privacy fence along the south property line. The fence shall be installed at the maximum allowable height according to the ULDC. (BUILDING: DATE: ZONING)
2. By **01/20/2006**, the applicant shall obtain a building permit for the existing solid roof screen enclosure. (BUILDING: DATE: ZONING)
3. By **01/20/2006**, 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. (BUILDING: DATE: ZONING)
4. Prior to the Development Order expiration (**10/20/2006**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA2005-01317, JPR Planning Services, agent, for Palm Beach County Property and Real Estate Management, to allow a proposed fence and existing hedge to exceed height requirements.

Applicant, name for the record?

MS. LINDSEY: Jean Lindsey, JPR Planning Services.

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

MS. LINDSEY: Yes, we do.

CHAIRPERSON KONYK: Okay. Any letters?

MR. SEAMAN: We have five in support.

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

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/20/2005**, the applicant shall amend the Approved Site Plan through the DRO section to reflect the variance approvals pursuant to BA-2005-1317. (DRO: DATE: ZONING)
2. By **08/20/2006**, 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. (BUILDING: DATE: ZONING)
3. Prior to DRO approval, the variance approval pursuant to BA-2005-1317 shall be reflected on the approved site plan. (DRO: EVENT: ZONING)

CHAIRPERSON KONYK: BofA2005-01318, Kilday & Associates, agent for K. Hovnanian, to allow a reduction of two incompatibility buffers.

Your name for the record?

MS. COLEMAN: Jamie Coleman, Kilday & Associates.

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

MS. COLEMAN: We do.

CHAIRPERSON KONYK: Are there any letters?

MR. SEAMAN: Three for clarification.

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

(No response.)

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. Prior to DRO approval, the variance

approval pursuant to BA-2005-1318 shall be reflected on the approved site plan. (DRO: EVENT: ZONING)

2. Prior to issuance of the Certificate of Occupancy, all landscape material required by the ULDC within both buffers addressed in BA-2005-1318, shall be planted throughout the remaining landscape buffers. (LANDSCAPE: EVENT: ZONING)

CHAIRPERSON KONYK: Board of Adjustment Time Extension 2005-01397, Sara Lockhart.

Your name for the record?

MS. LOCKHART: Good morning. Sara Lockhart.

CHAIRPERSON KONYK: There's no letters, correct, because it's a time extension.

MR. SEAMAN: Right.

CHAIRPERSON KONYK: Any opposition from the public?

(No response)

CHAIRPERSON KONYK: Any Board member feel this item should not receive a time extension?

(No response.)

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

Let me recap the consent here real quickly.

MR. SEAMAN: Madam Chair, this was the petition that had the changed condition on it.

MS. LOCKHART: I understand the condition as changed.

CHAIRPERSON KONYK: Okay. Thank you, Alan, for correcting me for the first time this year.

No, just kidding.

DEVELOPMENT ORDER

1. The Development Order for this particular variance shall lapse on **October 21, 2005**, one year from the approval date. (DATE: MONITORING-ZONING)

IS HEREBY AMENDED TO READ:

1. The Development Order for this particular variance shall lapse on **October 21, 2006**, one year from the approval date. (DATE: MONITORING-ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **October 21, 2005**, or prior to DRO certification, the applicant shall ensure the BA conditions are shown on the certified site plan. (DATE: MONITORING-DRO)

IS HEREBY AMENDED TO READ:

1. By **October 21, 2006**, or prior to DRO certification, the applicant shall ensure the BA conditions are shown on the certified site plan. (DATE: MONITORING-DRO)

CHAIRPERSON KONYK: All right. Board of Adjustment consent agenda consists of the following: 2005-00603; 2005-01100; 2005-01217 was reordered; Board of Adjustment Time Extension 2005-01269; BofA2005-01301; BofA2005-01302; BofA2005-01303; BofA2005-01312; BofA2005-01314; BofA2005-01315; BofA2005-01316; BofA2005-01317; BofA2005-01318; BofA Time Extension 2005-01397.

And just so there's no confusion, let me just restate that BofA2005-01217 was reordered to the regular agenda.

So the above items are on the consent agenda. Do I have a motion for approval?

MR. BERGER: Madam Chair, you want to also be certain to mention that 01269 [sic] was also pulled from the consent.

CHAIRPERSON KONYK: I normally don't even talk about the ones that were pulled, I just did that by accident, so that's why I -- but I will be happy to do that.

MR. BERGER: Well, it's on the record now.

CHAIRPERSON KONYK: Yeah. Right. Okay. Normally I just leave those off when I go through the consent items and I accidentally made that mistake.

Yeah, that's two. Okay. You got it, Alan, but you didn't correct me.

VICE CHAIRMAN BASEHART: I'll second it.

MR. SEAMAN: That's one for me.

CHAIRPERSON KONYK: Who made the motion?

MR. SADOFF: I did.

CHAIRPERSON KONYK: Motion by Mr. Sadoff, second by Mr. Basehart.

VICE CHAIRMAN BASEHART: I'd like my second to reflect also that the staff report for each of these items will become the record of the public hearing. CHAIRPERSON KONYK: Okay. We have a motion by Mr. Sadoff, a second by Mr. Basehart.

Any discussion?

(No response.)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously. Everybody that's on the consent is free to leave.

We'll start with BofA2005-01217 once the crowd leaves.

CHAIRPERSON KONYK: Okay. Is the applicant present for BofA2005-01217, the one that was pulled from the regular consent agenda and reordered?

Could you come forward? We're going to have a full hearing on this item.

VICE CHAIRMAN BASEHART: Well, maybe we can --

CHAIRPERSON KONYK: We just need to get it introduced though, before we go any further. I know you have opposition, but we have to do this right. You're on the regular agenda now.

MR. KNIGHT: Good morning, again. My name is Jerry Knight and I represent the applicant, who is the Anya Group, Inc.

I think the objector has an objection relating to the sign that was posted on the property and it's a procedural question, so I think maybe we need to address that first.

CHAIRPERSON KONYK: Right, and we will, but I just wanted to bring you forward before we got started.

Is anybody aware of this issue?

MR. SEAMAN: I was aware of the issue and we discussed it with the agent and the owner.

CHAIRPERSON KONYK: All right. Is it an issue?

MR. SEAMAN: Okay. Well, you have to show the yellow poster sign that we have, it needs to be posted within 15 days prior to the actual hearing and it needs to be within a 25 foot distance from the roadway.

And I believe it's a neighbor who claims

that it is further than 25 feet, and therefore he wishes that this be postponed and they relocate the sign -- I should probably give this to you for evidence.

MR. BERGER: Yes.

MR. SEAMAN: They post the sign so it's within the 25 foot distance.

CHAIRPERSON KONYK: Is it?

MR. SEAMAN: We have no way -- staff has no way of saying whether it was or wasn't 25 feet.

CHAIRPERSON KONYK: I'm sure the applicant can give us some -- shed some light on that.

MR. KNIGHT: Yes, we can.

VICE CHAIRMAN BASEHART: If you could explain that --

MR. KNIGHT: The sign was posted within the -- at least 15 days prior to the hearing the applicant picked up the sign, posted it on the property.

Where he posted it was on the face of the house. He put it on -- the building is there, so he put it right on the face of the building. It just so happens the building is setback 30 feet from the right-of-way line, from the property line.

And what the Code says is that the sign has to be -- all signs shall be setback no more than 25 feet from the property line.

He wasn't aware of that at the time he put up the sign. There was no instructions, and he wasn't aware of the Code, so he put it at the most secure place he thought it could be, you know, to withstand the wind and all that, that would stay there. So he put it right on the face of the house, which is 30 feet from the --

CHAIRPERSON KONYK: Okay. The problem that I have with this is you got a "No Trespassing" sign and then you have the sign not within the 25 feet. I mean the whole point of putting up the sign is so that people could read it, I would guess.

MR. KNIGHT: Well, it was an unintentional -- what we think would be considered a five foot variance or five foot difference from what the Code requires, which was not substantial, and I guess that's why we're here today to see if the Board -- because you do have some discretion as I read it under that particular section.

But if, you know, we're willing to do whatever the Board wants to do, if you want to continue the hearing to the next hearing and we'll come back then, that's fine, too. We'll repost it.

When we got the call from the staff two days ago to move the sign, we did immediately move the sign, but that's --

CHAIRPERSON KONYK: Okay. I want to defer this to the County Attorney, since we have --

MR. BERGER: It's pretty clear on it's face it has to be within 25 feet, and there's no evidence, in fact there's evidence to show that it wasn't. It's a due process issue that would -- even if the Board went ahead today, you would

probably lose on appeal really quickly, so it would be in your best interest to postpone as well.

MR. KNIGHT: I'd like to say we're here to see what the Board wants to do.

CHAIRPERSON KONYK: Okay.

MR. KNIGHT: If you want to continue it because of this, we're willing to go forward today but if --

CHAIRPERSON KONYK: Right.

MR. KNIGHT: -- even after hearing that, but if the Board wants to continue it, we're willing to --

CHAIRPERSON KONYK: All right. This is what I would suggest.

First of all, we have to reorder it to the next meeting, but in addition the person that's here in opposition needs to make sure that your opposition does directly relate to the variance when we come forward next month.

I mean, this month you're correct, it's not posted correctly and it should not be heard today. But please make sure that you have a copy of everything before you leave today so you can get familiar with the issue and you can look over the seven criteria, because the only way we're going to pull it off the consent agenda next time is if it does not meet the seven criteria and your -- I mean your opposition directly relates to the seven criteria.

MR. MIKULIC: May I say something?

CHAIRPERSON KONYK: Certainly. You need to come to the mic and you need to state your name.

MR. MIKULIC: My name is Conrad Mikulic. I'm familiar with this property for 15 years, all right. I'm the neighbor directly north, but I'm here representing on behalf of Mrs. Flarity and Mr. Ford, who are also neighbors. They're the next closest neighbor on the other side of this property.

They're the ones that called me and told me that the property wasn't done correctly and it wasn't -- and they couldn't read it from the road.

I flew back the other day, when I flew back, they had had pictures taken and I presented it to the lady right here, Mrs. James, and I had them sent up to you I guess two days ago, something like that. And that was the reason.

The other two people could not be here. They never -- by the way, they never got their notice until --

CHAIRPERSON KONYK: That's a courtesy in the mail.

MR. MIKULIC: Well, they couldn't read it and they're right next door. And they called me on the telephone and told me, it's pretty good there's a notice up there, but I can't read it. Okay?

CHAIRPERSON KONYK: Right. I understand. That's fine. Just when we come back, if you do have an objection, you need to confine your objection to the variance and the seven criteria,

just so you'll be prepared next month, because we're not going to pull it from the consent unless your objections directly related to the variance.

MR. MIKULIC: There's objections to it, economic, big economic objections to it, yes, which I'm surprised that in the case here that the Board does not know about that, you know.

CHAIRPERSON KONYK: Thank you. That's been reordered.

MR. MIKULIC: Where do I get the rest of the information here?

CHAIRPERSON KONYK: You can go ahead. They'll get it to you.

MR. BERGER: Can I have a -- I'm sorry.

MR. SEAMAN: Can I interject, Madam Chair. If there's something that you need to tell staff, please tell us so we can look into that and incorporate it into the staff report the next time, so.

CHAIRPERSON KONYK: If you can stay a little bit today after the meeting and visit with staff if you have time.

MR. MIKULIC: Sure.

MR. SEAMAN: We need to hear everything that's going on so we can take it into consideration for the seven criteria.

MR. MIKULIC: Okay. I will do that. Are you the gentleman who I'm supposed to talk to concerning this?

MR. SEAMAN: Yeah.

CHAIRPERSON KONYK: Have a seat.

MR. KNIGHT: Staff has been very good about this, but for the record, if he does present anything, we would like of course notice of it --

CHAIRPERSON KONYK: Certainly, absolutely.

MR. KNIGHT: -- prior to the hearing so that we can prepare to address it.

CHAIRPERSON KONYK: I'm sure.

MR. KNIGHT: Thank you.

MR. BERGER: Just a motion to have that entered into the record for today's hearing, those photographs.

CHAIRPERSON KONYK: Certainly. I forgot to do that.

Can we have a motion to accept these pictures into the record?

VICE CHAIRMAN BASEHART: So moved.

CHAIRPERSON KONYK: Motion by Mr. Basehart.

MS. CARDONE: Second.

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

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries.

VICE CHAIRMAN BASEHART: Madam Chair, I make a motion that we postpone BofA2005-01217 for 30 days to the --

MR. SEAMAN: November 17th.

VICE CHAIRMAN BASEHART: -- November 17th Board of Adjustment meeting.

MS. CARDONE: Second.
CHAIRPERSON KONYK: Motion by Mr. Basehart, second by Ms Cardone.
All those in favor?
BOARD: Aye.
CHAIRPERSON KONYK: Opposed?
(No response.)
CHAIRPERSON KONYK: Motion carries unanimously.
BofA2005-01217 will be postponed to the November 17th, is that what you said?
MR. SEAMAN: Correct.
CHAIRPERSON KONYK: November 17th, 2005, hearing.
VICE CHAIRMAN BASEHART: Just before we move on, didn't this item come before the Board like a year or two ago?
MR. SEAMAN: Yeah, they came through and they had a six month period in which to get their issues resolved, and one of the main issues was an easement with DOT and there was a retaining wall that was constructed off the property line so they altered the survey to include those issues. It's taken this long to get it worked out, so then they had to reapply.
So this is the first time they've come before the Board again under a new application.
VICE CHAIRMAN BASEHART: So the other one was actually withdrawn?
MR. SEAMAN: They ran out of time.
VICE CHAIRMAN BASEHART: As you say, administratively withdrawn.
MR. SEAMAN: Yes, I guess you could say that, administratively withdrawn.
VICE CHAIRMAN BASEHART: Okay.
CHAIRPERSON KONYK: Okay. So we'll see you next month.

CHAIRPERSON KONYK: BofA2005-01299, if the applicant could come forward. And your name for the record, again?
MS. DEVONDRY-SMITH: Tammy Devondry-Smith.
VICE CHAIRMAN BASEHART: It seems to me that, I mean maybe we can shorten this.
CHAIRPERSON KONYK: The opposition.
VICE CHAIRMAN BASEHART: Yeah, the reason we pulled this is because apparently a neighbor has indicated that she supports the variance but thinks additional conditions are necessary.
Are you familiar with what she wants?
MS. DEVONDRY-SMITH: I believe so.

CHAIRPERSON KONYK: Why don't we hear from her.

VICE CHAIRMAN BASEHART: Why don't we hear from her and we'll see if --

CHAIRPERSON KONYK: Your name for the record?

MS. GORENSEN: Good morning. My name is Barbara Gorenson, I'm at 3217 Cove Road, which is diagonally across the street from the subject property.

My self as well as four other neighbors, and I have their signatures with me if you wanted to see them, are in favor of her doing the rehab and in favor of the variance but with a few minor conditions.

Apparently she already is planning on doing a two car garage, which we would like. If we're going to allow her to have the variance encroaching in the front yard by seven feet we would like to request she has a two car garage and a two car driveway.

This particular street is a very, very narrow private street.

CHAIRPERSON KONYK: Wait a minute. Do you already have a two car garage?

MS. GORENSEN: But not the two car driveway.

MS. DEVONDRY-SMITH: No, no, the addition is going to be a two car garage.

MS. GORENSEN: But the driveway that's been presented to me anyways on the plan only shows as a one car driveway, and our neighborhood has a 30 foot easement, a right-of-way easement on the road, and our concern is just that simply that we don't want them parking out on the street.

That's our only concern is that we want a two car garage and two car driveway so that they're not parking out on the street.

MS. DEVONDRY-SMITH: I think her concern was --

CHAIRPERSON KONYK: Do you have a two car driveway?

MS. GORENSEN: No.

MS. DEVONDRY-SMITH: No, no. It's a proposed plan that we submitted to you and it was done by a surveyor, and what he did was he didn't draw in the two car driveway, he just left what was existing, but we definitely plan on a two car garage, a two car driveway.

MS. GORENSEN: Then it should be put in the record.

MR. JACOBS: Well, then you should have no objection to the condition?

MS. DEVONDRY-SMITH: I have no objection.

CHAIRPERSON KONYK: But why would we make it a condition?

MR. SEAMAN: Yeah, I don't --

CHAIRPERSON KONYK: It has nothing to do with our variance.

MR. SEAMAN: Yeah, that's a design issue.

CHAIRPERSON KONYK: That's a design issue.

MR. SEAMAN: Per Code you're only required

to have two off-street paved parking spaces, and one is in the garage and one can be behind the car in the driveway.

MS. DEVONDRY-SMITH: Correct. Which is the way the survey is drawn it would conform with Code.

MR. SEAMAN: Yes.

CHAIRPERSON KONYK: Obviously this has cleared it up for you though because she has stated that she's going to have a two car driveway.

I mean I think that's something you guys were sitting next to each other that you could have probably talked about, but that's all right.

VICE CHAIRMAN BASEHART: Anything else?

CHAIRPERSON KONYK: We're not going to make it a condition. We don't have the authority to put that in as a condition, but you know, you heard her say on the record that that's what it is so you can alleviate the fears of your neighbors. Thank you.

MS. GORENSEN: Thank you.

CHAIRPERSON KONYK: So we need to vote on this item. I already went through this, didn't I? Is there any letters? I just want to double-check.

MR. SEAMAN: 1299.

VICE CHAIRMAN BASEHART: Just one.

MS. DEVONDRY-SMITH: I believe there were four in favor.

MS. GORENSEN: You also didn't mention --

CHAIRPERSON KONYK: Sit down. Have a seat. Thanks.

We had three letters, all in approval. That's what Nancy has in her notes, but I'd rather hear it from Alan.

MR. SEAMAN: 1299. There we go. Yes, there were three letters in approval.

CHAIRPERSON KONYK: This lady says she had a letter that probably wasn't an approval, are we showing her letter?

MR. SEAMAN: I'm sorry, ma'am, your name is again?

MS. GORENSEN: Barbara Gorenson, I faxed it to Oscar.

MR. SEAMAN: There's a Barbara in here with no last name, and it says it was a phone call.

MS. GORENSEN: I also faxed.

CHAIRPERSON KONYK: Okay.

MS. GORENSEN: I have letters from my neighbors.

CHAIRPERSON KONYK: Okay. We'll take your letter into the record. Did you give it to him?

MR. SEAMAN: I have it.

CHAIRPERSON KONYK: How many letters did you get from her?

MR. SEAMAN: One from this lady.

CHAIRPERSON KONYK: Okay, so --

MR. SEAMAN: And if it was faxed to us, this appears to be the original but it's not in

our file, so some breakdown between getting it to us and into the file is --

CHAIRPERSON KONYK: Well, I mean is there any fax confirmation on that letter?

MR. SEAMAN: No.

CHAIRPERSON KONYK: So we'll just assume that it was presented today and I guess we'll vote to take it into the record.

MR. SEAMAN: Yes, there is.

CHAIRPERSON KONYK: There is a fax confirmation showing that it was received by us?

MR. SEAMAN: Paul Jenkins and Sons.

CHAIRPERSON KONYK: Does it have our fax, does it show where it was going?

MR. SEAMAN: There's no fax --

CHAIRPERSON KONYK: All right. Let's just take it into the record now.

Can I have a motion to accept this letter into the record?

MS. CARDONE: So moved.

CHAIRPERSON KONYK: By Ms. Cardone.

VICE CHAIRMAN BASEHART: Second.

CHAIRPERSON KONYK: Second by Mr. Basehart.

All those is favor?

BOARD: Aye.

CHAIRPERSON KONYK: Motion carries unanimously.

So we've accepted your letter into the record. We've noted that you would prefer that there be a two car driveway which she has said on the record that she had planned on anyway.

And BofA2005-01299, can we have a motion for approval?

MR. JACOBS: So moved.

CHAIRPERSON KONYK: Motion by Mr. Jacobs.

MR. SADOFF: Second.

CHAIRPERSON KONYK: Second by Mr. Sadoff.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Is there any discussion? I think that Bob wanted to say something.

VICE CHAIRMAN BASEHART: No.

CHAIRPERSON KONYK: Okay. All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Motion carries unanimously. Your variance has been approved.

Okay. I think that's it, isn't it? Okay. We're adjourned.

BOARD OF ADJUSTMENT CONDITIONS

1. By **10/20/2006**, 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. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (10/20/2007), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

(Whereupon, the meeting was adjourned at 9:40 a.m.)

* * * * *

C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

I, Sophie M. Springer, Notary Public, State
of Florida at Large,

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set out; that I
was authorized to and did report the proceedings and
evidence adduced and offered in said hearing and that the
foregoing and annexed pages, numbered 4 through 30,
inclusive, comprise a true and correct transcription of the
Board of Adjustment hearing.

I FURTHER CERTIFY that I am not related to
or employed by any of the parties or their counsel, nor
have I any financial interest in the outcome of this
action.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 1st day of November, 2005.

Sophie M. (Bunny) Springer