

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, December 15, 2005
9:05 a.m. - 11:05 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

Chelle Konyk, Chairperson

Robert E. Basehart, Vice Chairman

Ms. Nancy Cardone

Mr. Joseph J. Jacobs

Mr. William Sadoff

Mr. Stanley Misroch

Annie Helfant, 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

I N D E X

<u>Petition</u>		<u>Page</u>
	<u>NOVEMBER AGENDA</u>	
1	BA2005-01304	7
2	BA2005-01448	7
3	BA2005-01217	8, 36
4	BATE2005-01400	8
5	BA2005-01428	9
6	BA2005-01444	10
7	BA2005-01445	11
8	BA2005-01446	12
9	BA2005-01447	13
10	BA2005-01449	14, 51
11	BA2005-01450	15
12	BA2005-01451	16
13	BA2005-01452	17
14	BA2005-01454	18
15	BA2005-01505	19

<u>Petition</u>		<u>Page</u>
	<u>DECEMBER AGENDA</u>	22
16	BA2005-01564	23
17	BATE2005-01541	23
18	BATE2005-01548	24
19	BATE2005-01549	26
20	BA2005-01566	27
21	BA2005-01567	22
22	BA2005-01569	28
23	BA2005-01570	29
24	BA2005-01573	29, 63
25	BA2005-01579	30

<u>Petition</u>		<u>Page</u>
26	BA2005-01581	31
27	BATE2005-01603	32
28	BATE2005-01613	33
29	BATE2005-01634	34

CERTIFICATE OF REPORTER:		68
--------------------------	--	----

P R O C E E D I N G S

* * * * *

CHAIRPERSON KONYK: We're going to call to order the November meeting first and even though this is December 15th, we will be conducting business from the November 17th, 2005, meeting that was postponed due to the hurricane.

We'll start out with a roll call and a 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.

MR. MISROCH: Here.

MS. STABILITO: Mr. Donald Mathis.

(No response.)

CHAIRPERSON KONYK: Next item on the Agenda is the opening prayer, which we'll only do one time; we won't do one for the December meeting.

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 all our decisions meet the standards of divine compassion for all. Amen.

Pledge of Allegiance. Please stand.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON KONYK: I have before me Proof of Publication in the Palm Beach Post on November 29th.

For those of you who are not familiar with how this Board conducts its business, the meeting is divided into two parts. It's the Consent Agenda and the Regular Agenda. Items on the Consent Agenda are items that have been recommended for approval by staff, the applicant agrees with any conditions, there's no opposition from the public and no Board member feels the item warrants a full hearing.

If we find that there is opposition from the public or the applicant does not agree with the conditions or a Board member feels the item warrants a full hearing, an item on consent will be re-ordered to the Regular Agenda.

After we hear all of the consent items, we will vote on all of them at once and at that point

anybody whose item has been on consent is free to leave.

Annette, are the letters being mailed out or do you have them? Are the letters being mailed out or do you have them?

MS. STABILITO: They'll be mailed out.

CHAIRPERSON KONYK: They'll be mailed out.

After the Consent Agenda has been voted on, we will open up the Regular Agenda.

Items on the Regular Agenda have either been recommended for denial, the applicant doesn't agree with the conditions or a Board member feels the item warrants a full hearing.

We'll start with the staff introduction of the legal. The applicant will have an opportunity to give their presentation. We will hear from the staff's presentation at that point and then the public. After the public portion of the hearing is closed, the Board will ask questions and then vote on the item.

Everyone received a copy of the Minutes from the October meeting. Does anybody have any corrections or additions?

(No response.)

CHAIRPERSON KONYK: Seeing none, could I have a motion for approval.

MR. SADOFF: So moved.

MR. MISROCH: Second.

CHAIRPERSON KONYK: Motion by Mr. Sadoff, second by Mr. Misroch. All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously.

Anything, Alan?

MR. SEAMAN: I just wanted to remark to the Board that Bart Cunningham's term ends January 1st, but he'll be reappointed January 5th, so he'll be fine for the January 19th hearing. So it should be a smooth rollover.

CHAIRPERSON KONYK: Okay. Anything else? Any corrections to the November --

MR. SEAMAN: No.

CHAIRPERSON KONYK: Okay. All right. I'm going to ask anyone -- let the record reflect that Mr. Basehart has arrived.

I would like to ask anyone who has any intention of speaking at either meeting so we don't have to do the swearing in twice, to please stand, raise your right hand and be sworn in. If you think you may speak, please get sworn in now because I don't want to have to swear anybody in afterwards.

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

CHAIRPERSON KONYK: Okay. We'll start with the postponed items from the November meeting. We have BA2005-01304. Is this by right?

MR. SEAMAN: By vote.

CHAIRPERSON KONYK: By vote. Okay. This is Edward Patrick Blunck for United Civic Organization to allow a proposed fence to exceed the maximum height. We need to vote on this because?

MR. SEAMAN: It was postponed before by right, but it's being postponed again because survey issues have not been resolved with Len Mark (phon).

CHAIRPERSON KONYK: Okay. When is it postponed?

MR. SEAMAN: To the 17th, January.

CHAIRPERSON KONYK: Of January? Time certain.

MR. SEAMAN: 19th.

CHAIRPERSON KONYK: January 19th, okay. Does anybody have any objection to this item being postponed? Anybody in the public portion of the hearing?

(No response.)

CHAIRPERSON KONYK: Okay. Can I have a Board member make a motion?

MR. SADOFF: So moved.

CHAIRPERSON KONYK: Thirty days, okay. Motion by Mr. Sadoff.

VICE CHAIRMAN BASEHART: Second.

CHAIRPERSON KONYK: Second by Mr. Basehart. All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Okay. Postponed.

CHAIRPERSON KONYK: BA2005-01448, Land Design South. Is this by right?

MR. SEAMAN: By right.

CHAIRPERSON KONYK: Okay. So I'm not going to read that. So that will be postponed.

MR. SEAMAN: Thirty days.

CHAIRPERSON KONYK: Thirty days, January. Okay. Is anybody here from the public to speak on this one?

(No response.)

CHAIRPERSON KONYK: Okay. Consent items are BA2005-01217, Dror Tregar, agent for Anya Group, to allow an existing single family dwelling to encroach. Is the applicant present? Would you come forward?

We don't need everybody, just one person.

MR. KNIGHT: Good morning. I'm Jerry Knight and I'm the attorney for the applicant.

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

MR. KNIGHT: We've had some discussion this morning and I think the second condition is going to be modified based on those discussions.

MR. SEAMAN: Correct.

CHAIRPERSON KONYK: Okay. So do you want to read the modification?

MR. SEAMAN: All right. Condition number two will be modified to read, "By May 15, 2006, the Applicant shall make application and receive all required permits for construction of a seawall or provide proof from any governmental agency that permits are not required."

CHAIRPERSON KONYK: Okay. Do you understand and agree with that?

MR. KNIGHT: Yes, we do.

CHAIRPERSON KONYK: Is there anyone here from the public here to speak on this item?

UNIDENTIFIED SPEAKER: Yes, I am. Right here.

CHAIRPERSON KONYK: Do you have an issue that directly relates to the variance?

UNIDENTIFIED SPEAKER: Yes, I do, quite a few.

CHAIRPERSON KONYK: Okay. Well, then we're going to pull this. It will be ordered to the first item on the Consent, BA2005-01217. I meant the Regular Agenda.

CHAIRPERSON KONYK: BATE2005-01400, Bradley Miller, applicant present? If you are aware that your item is up, can you kind of be ready to come up here so we can move quickly?

MR. MILLER: Good morning. Bradley Miller for the record.

CHAIRPERSON KONYK: You're looking for a time extension of 12 months?

MR. MILLER: Correct. The variances that came before you were at the up front part of a zoning application that we had. The time that it

took to go through zoning, site plan, we are now in for permitting and platting. It's just not completed yet.

CHAIRPERSON KONYK: Okay. Any Board member feel this item should not receive a 12-month extension? May I ask, but I'm sure there isn't anybody from the public, but just in case, anybody from the public to speak against this?

(No response.)

CHAIRPERSON KONYK: Okay. This will remain on Consent.

MR. MILLER: Thank you.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on **November 20, 2005**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The development order for this particular variance shall lapse on **November 20, 2006**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **November 20, 2005**, the applicant shall obtain a building permit for the proposed Limited Self Storage in order to vest the variance approved pursuant to BA2003-682. (DATE: MONITORING-BLDG PERMIT)

IS HEREBY AMENDED TO READ:

1. By **November 20, 2006**, the applicant shall obtain a building permit for the proposed Limited Self Storage in order to vest the variance approved pursuant to BA2003-682. (DATE: MONITORING-BLDG PERMIT)

CHAIRPERSON KONYK: Next item is BA2005-01428, agent for Southern Waste Systems to allow elimination of a right-of-way buffer. Staff recommended one condition.

Your name for the record?

MS. LOCKHART: Sara Lockhart.

CHAIRPERSON KONYK: And you agree with that one condition?

MS. LOCKHART: Yes, ma'am.

CHAIRPERSON KONYK: Anyone in the public

here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are two letters and two disapprove and they just feel that the facility itself has garbage, it's noisy, has debris --

CHAIRPERSON KONYK: It doesn't relate to the variance; correct?

MR. SEAMAN: No.

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

(No response)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **2/15/2006** or prior to DRO certification, the applicant shall amend the approved site plan to reflect the variance approval pursuant to BA2005-1428.
(DRO: DATE: ZONING)

CHAIRPERSON KONYK: Next item on Consent is BA2005-01444, Jorge and Natalie Perez, owners, to allow an existing single family dwelling and enclosing of an existing carport to encroach into the required side interior setback.

Your name for the record?

MR. PEREZ: Jorge Perez.

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

MR. PEREZ: The first one I have a question. Could you explain it to me?

CHAIRPERSON KONYK: He will. What's your question?

MR. PEREZ: A letter from you to the builder to get a permit or --

MR. SEAMAN: It's just a perfunctory thing just to show that -- you just want to give the Letter of Approval that you get, the Result Letter from us, take it down with you when you file for your building permit.

CHAIRPERSON KONYK: What does "perfunctory" mean?

MR. SEAMAN: Routine, basic.

CHAIRPERSON KONYK: Okay. Thank you. So now you understand and agree?

MR. PEREZ: Yes.

CHAIRPERSON KONYK: Any member of the

public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are two and they are in support.

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

(No response)

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

MR. PEREZ: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By **2/15/2006**, 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 (**12/18/2006**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. The variance approval pursuant to BA2005-1444, applies only to the 10.1 ft. x 28.4 ft. enclosed carport. All other improvements shall meet the ULDC requirements. (ZONING: ON-GOING: ZONING)

CHAIRPERSON KONYK: BA2005-01445, Hawthorne Building Development, agent for Thomas and Johnnie Wheeler, to allow an existing garage to encroach into the required front setback.

Your name for the record?

MR. HAWTHORNE: James W. Hawthorne.

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

MR. HAWTHORNE: Yes, I understand and agree with the conditions.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Two in support.

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

(No response.)

CHAIRPERSON KONYK: This item will remain on consent. You may have a seat.

MR. HAWTHORNE: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By **2/15/2006**, 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 (**12/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. The variance approval pursuant to BA2005-1445, applies only to the existing 35 ft. x 60.1 ft. detached garage. All other improvements shall meet the ULDC requirements. (ZONING: ON-GOING: ZONING)
4. Prior to issuance of the Certificate of Occupancy for the proposed single-family dwelling, the living area and kitchen in the existing detached garage shall be removed and inspected by Code Enforcement. (CODE ENFORCEMENT: EVENT: ZONING)

CHAIRPERSON KONYK: BA2005-01446, Michael and Ingrid Ahrens, owners, to allow a proposed room addition to encroach into the required rear setback.

Name for the record?

MS. AHRENS: Ingrid Ahrens.

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

MS. AHRENS: Yes, I do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in support.

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **2/15/2006**, 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 (**12/15/2006**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By 2/15/2006 or prior to DRO certification, the applicant shall amend the approved site plan to reflect the variance approval pursuant to BA2005-1108. (DRO: DATE: ZONING)

MR. SEAMAN: I need to interject that 2005-1447, which is the next one, has requested 30 days postponement by right.

CHAIRPERSON KONYK: Okay. You could have brought that forward before, but that's okay. I know, you get confused. It's okay.

So, BA2005-01447 will be postponed for 30 days by right, but let me just ask is there any member of the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Okay.

MR. SADOFF: Madam Chair, if this is being postponed for 30 days and this is the November -- November, yeah -- the November hearing, isn't that about now?

MR. SEAMAN: No, everything was just --

CHAIRPERSON KONYK: No, no, no. The November and December have been combined and all we're doing is hearing the items from November separately from the items from December. So he would be postponed.

MR. SADOFF: Postponed 30 days from now?

CHAIRPERSON KONYK: That's correct. Yes, that's correct.

Okay. Wait a minute. I have to ask this. Is somebody here from the public to speak against

this item?

UNIDENTIFIED SPEAKER: We were just coming to ask for an extension so we could get more knowledge.

CHAIRPERSON KONYK: Okay. So you don't have any objection to the postponement. That's all I want to clarify.

UNIDENTIFIED SPEAKER: Right.

CHAIRPERSON KONYK: Okay. Thank you. BA2005-01447 will be postponed to the January 19th or 17th -- what is it?

MR. SEAMAN: January 19th.

CHAIRPERSON KONYK: January 19th meeting by right.

CHAIRPERSON KONYK: BA2005-01449, Christopher Burch, owner, to allow a proposed attached garage to encroach into the required front setback.

Name?

MR. BURCH: Christopher Burch.

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

MR. BURCH: Yes.

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

What is your objection? Does it relate directly to the variance?

MS. FALCO: May I come up?

CHAIRPERSON KONYK: Yes, you may and I'd like your name for the record.

MS. FALCO: Ludmilla Falco. Good morning.

CHAIRPERSON KONYK: Okay. This is to allow the garage to encroach into the front setback and your objection is specifically related to that?

MS. FALCO: Yes, it is.

CHAIRPERSON KONYK: Okay. We'll remove this item from the Consent and reorder it to the second item on the Regular Agenda.

No, if you can have a seat, we're going to hear the item. So when we hear it, you can speak.

CHAIRPERSON KONYK: BA2005-01450, Land Design South for Boynton Beach Associates to allow a proposed entrance sign to exceed the maximum allowable height.

Your name for the record?

MS. MORTON: Jennifer Morton with Land Design South.

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

MS. MORTON: Yes, we do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: I need to interject to clarify that the way it's written it says to allow, I'm sorry. It says Land Design South, agent, for Boynton Beach Associates, owner, to allow a proposed entrance sign. It is really to allow --

MS. MORTON: Their wing walls.

MR. SEAMAN: -- both entry signs. On the site plan there's actually two of them and the way we wrote it up, it sounded like we were only talking about one. But we were actually talking about both of them and both of them are on the site plan that's in the packet.

CHAIRPERSON KONYK: You understand that?

MS. MORTON: Yes.

CHAIRPERSON KONYK: Okay. Any letters?

MR. SEAMAN: There are six, one who approves and five who disapprove.

CHAIRPERSON KONYK: For no reason?

MR. SEAMAN: They say it's too tall.

CHAIRPERSON KONYK: But it's not. Okay. So it's not specifically related to the --

MR. SEAMAN: It is related to it, yes.

CHAIRPERSON KONYK: Then why -- okay.

MR. SEAMAN: What would you like me --

CHAIRPERSON KONYK: I don't know.

MR. SEAMAN: The walls have -- this project --

CHAIRPERSON KONYK: I mean address the letters, so that I can move beyond it. Don't tell me what they are. But I mean, has the issue been resolved?

MR. SEAMAN: From the standpoint of staff, yes.

CHAIRPERSON KONYK: Okay. That's all I need to know.

Any Board member feel this item warrants a full hearing?

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By 2/15/2006, 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 (**12/15/2008**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **12/15/2006**, the approved site plan for Hagen Assemblage (**P-02-65 A**) shall be amended to reflect the variance approval pursuant to BA2005-1450. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: Next item on Consent is BA2005-01451, Alvaro Cabal for Antonia De La Rosa and Denis Perez, owners, to allow an existing single family dwelling to encroach into both required setbacks.

Is the applicant present?

(No response.)

MR. SEAMAN: Did you talk to anybody?

MR. SANFORD: Yes, I sent them the conditions and stuff.

MR. SEAMAN: So what did they say?

MR. SANFORD: I sent them the conditions and the staff report and I told them that today was the hearing, Thursday. They knew that.

VICE CHAIRMAN BASEHART: Did they indicate any problem with the conditions?

MR. SEAMAN: No.

CHAIRPERSON KONYK: Okay. We'll leave this on Consent, as long as there is no one here to speak from the public in opposition. Any letters?

MR. SEAMAN: There is one in support.

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

(No response.)

CHAIRPERSON KONYK: Any Board member have a problem with this item remaining on Consent, even though the applicant is not here?

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **5/15/2006**, 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: Next item on the Consent agenda is BA2005-01452, Beril Krueger Planning & Zoning, agent for Michael and Tammy Smith, to allow a proposed attached garage to occupy more than 25 percent of the distance between property lines.

Is the applicant present?

VICE CHAIRMAN BASEHART: Have you talked to him?

MR. SEAMAN: He's been spoken to, yes.

VICE CHAIRMAN BASEHART: He's been spoken to a lot of times.

MR. SEAMAN: Is anybody here in --

CHAIRPERSON KONYK: Opposition? Anyone here in opposition to this item?

Okay. This item gets pulled from Consent and what happens now?

VICE CHAIRMAN BASEHART: We'll just handle it as a hearing and --

MR. SEAMAN: Let me explain. Staff explained to Mr. Smith that the Code requires the yellow signs to be posted within 25 feet from the property line and for a period of 15 days before the actual hearing, and some neighbors reported with a picture that the sign had been pulled back to the rear of his property.

So it was staff's recommendation that he postpone it 30 days, put the sign out there so it could clearly be seen for 15 days to be sure that all neighbors were able to read it.

And I think that he took that suggestion and they're not here. I was expecting to get a letter requesting a postponement for 30 days, but didn't get one.

CHAIRPERSON KONYK: So do you think he thinks it's postponed?

MR. SEAMAN: That would be my observation,

yeah.

CHAIRPERSON KONYK: Whoever is here in opposition, what is your -- is your opposition because the sign was not posted or is it your opposition because of something to do with the variance? Okay. This item is going to be postponed -- is it by right or do we have to vote on it?

MR. SEAMAN: This is the first time this project -- this project was before you --

CHAIRPERSON KONYK: Should have been postponed, though, how many days in advance of the hearing for it to --

MR. SEAMAN: It's by vote.

CHAIRPERSON KONYK: Okay. Let's vote on this one.

VICE CHAIRMAN BASEHART: You want to take this now?

CHAIRPERSON KONYK: Yeah. We did the postponements.

VICE CHAIRMAN BASEHART: I'll make a motion that we postpone this item for 30 days.

MS. CARDONE: Second.

CHAIRPERSON KONYK: Motion by Mr. Basehart, second by Ms. Cardone.

Any discussion?

(No response.)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously. BA2005-01452 will be postponed to the January 19th meeting.

The next item -- so the people that are here on this item, it will be on the next meeting in January, so you know.

CHAIRPERSON KONYK: BA2005-01454, Dennis Koehler, agent, for Cherry Road Plaza, to allow a reduction of the required incompatibility buffer and foundation planting.

Your name for the record?

MR. KOEHLER: Dennis Koehler.

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

MR. KOEHLER: We talked about the second condition. Mr. Seaman and Mr. Gamez have a replacement condition that is acceptable.

CHAIRPERSON KONYK: Okay.

MR. SEAMAN: If you turn to page 56 of your packet, condition number two needs to be deleted and in its place we would like to put, "By February 1, 2006, the applicant shall have submitted and received approval for a landscape plan by the Landscape Division." Period.

MR. KOEHLER: That's acceptable.

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

(No response.)

CHAIRPERSON KONYK: Any letters? Dennis, keep it up, I'll oppose it.

MR. SEAMAN: There are none. There are none.

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

(No response.)

CHAIRPERSON KONYK: Seeing none, this item will remain on Consent with the corrected condition.

BOARD OF ADJUSTMENT CONDITIONS

1. The applicant shall amend the approve site plan (**P-77-41 A**) through the DRO section, to reflect the variances approved pursuant to BA2005-1454. (DRO: DATE: ZONING)
2. By **February 1, 2006**, the applicant shall have submitted and received approval for a landscape plan by the Landscape Division. (LANDSCAPE: EVENT: ZONING)

CHAIRPERSON KONYK: BA2005-01505, Urban Design Studio, agent, for Palm Beach County to allow a reduction in the required number of parking spaces.

Name for the record?

MR. SCOTT: For the record, Russell Scott with Urban Design Studio representing the applicant.

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

MR. SCOTT: Yes, I do and yes, we do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

CHAIRPERSON KONYK: Any member of the

Board feel this warrants a full hearing?

(No response.)

CHAIRPERSON KONYK: Seeing none, this item will remain on the Consent Agenda.

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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 (**12/15/2008**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. Prior to DRO approval, the variance approval pursuant to BA2005-1505 shall be reflected on the approved site plan. (DRO: EVENT: ZONING)

CHAIRPERSON KONYK: And I will recap what we've just done. The items that are remaining on Consent are BATE2005-01400, BA2005-01428, BA2005-01444, BA2005-01445; BA2005-01446; BA2005-01450; I'm going to repeat that, BA2005-01450; BA2005-01451; BA2005-01454; BA2005-01505.

And we've had some postponed items, so let me just mention those. We've got BA2005-01452 postponed; BA2005-01447 postponed and we have two items reordered to the Regular Agenda, BA2005-01217 and BA2005-01449.

At this point, I'd like to ask a Board member if they could make a motion to approve the Consent items that have remained on the Consent Agenda with the conditions as they've been corrected or modified.

MR. JACOBS: So moved.

MR. SADOFF: Second.

CHAIRPERSON KONYK: Who was that? Motion by Mr. Jacobs, second by Mr. Sadoff. Any discussion?

VICE CHAIRMAN BASEHART: Before we vote, I'd just like to reflect on the record that my vote is based on the staff report and I would like the staff reports to be the record of the hearing.

CHAIRPERSON KONYK: Okay. Do you want the

maker of the motion to amend his motion?

MR. JACOBS: I'll amend it in that way.

CHAIRPERSON KONYK: We have a motion as amended by Mr. Jacobs and a second by?

MR. SADOFF: Me. Sadoff.

CHAIRPERSON KONYK: Just making sure, by Mr. Sadoff. All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously. Everybody on the Consent can leave.

VICE CHAIRMAN BASEHART: Madam Chair, before we move on, I would like to make a motion that the items that we pulled from the agenda be put on the Regular Agenda for the December 15th meeting so we can deal with the next Consent Agenda and not hold all these people up to hear a couple of petitions.

CHAIRPERSON KONYK: Okay. Does anybody have an objection to that? We don't need a motion for that, do we? No, okay. I think that's a good suggestion. So don't throw out your November packets yet.

MR. JACOBS: Madam Chair, I'd like to ask a general question and that is when an item is on the Consent Agenda and the applicant doesn't appear --

CHAIRPERSON KONYK: They don't have to appear because first of all, in order to be on the Consent Agenda they have to agree to the conditions. That's it. So it's pretty clear.

I mean, obviously, if it's somebody that normally should know the routine of this Board like people that are here frequently, we're not going to be as lenient, but if there's not opposition from the public -- but we did have that one item where the guy didn't come and there was opposition, so it got pulled.

VICE CHAIRMAN BASEHART: I think what happens if you're on the Consent Agenda and you don't come, you're taking a big risk because if somebody shows up and the item gets pulled, your petition could have its public hearing and be denied without the benefit of your input.

MR. JACOBS: But since the staff has told people that there is a hearing, I'm not terribly sympathetic.

CHAIRPERSON KONYK: No, I don't think -- okay. I think we can discuss this at a workshop. Let's move on to the December meeting.

DECEMBER AGENDA

CHAIRPERSON KONYK: December 15th, 2005, I think we'll do the roll call again.

MS. STABILITO: Mr. William Sadoff.

MR. SADOFF: Here.

MS. STABILITO: Mr. Raymond Puzziello.

(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.

VICE CHAIRMAN BASEHART: Here.

MS. STABILITO: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. STABILITO: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch.

MR. MISROCH: Here.

MS. STABILITO: Mr. Donald Mathis.

(No response.)

CHAIRPERSON KONYK: We agreed to not do the opening prayer twice.

Proof of Publication, is it the same publication or was it a separate one?

MS. STABILITO: There is none, we already did it.

CHAIRPERSON KONYK: I understand. We have the proof of publication for both meetings. This was published. Okay.

I didn't ask about the Minutes. I was asking about the publication. Okay.

I'm not going to do my remarks again because I think everybody was here for the first time.

Approval of Minutes, we've already done.

Remarks of the Zoning Director? Nothing?

MR. SEAMAN: Nothing.

CHAIRPERSON KONYK: Any changes or additions to the Agenda?

Everyone that's going to speak has been sworn in; correct? If there is anybody that's not sworn in that chooses to speak, I need to see a hand. Okay.

MR. SEAMAN: I need to back up, I'm sorry. There is one correction.

CHAIRPERSON KONYK: Sure.

MR. SEAMAN: BA2005-01567 has requested a postponement for 30 days by right to January 19th.

CHAIRPERSON KONYK: Was there any member of the public here on that item, which is Good Shepherd Lutheran Church?

(No response.)

CHAIRPERSON KONYK: Okay. BA2005-01567 will be postponed by right.

Anything else?

CHAIRPERSON KONYK: Next item postponed is BA2005-01564, Ellie Halperin, agent, for Jimmy K. Boyd. That's by right?

MR. SEAMAN: Thirty days by right.

CHAIRPERSON KONYK: Okay.

CHAIRPERSON KONYK: First item on Consent is a time extension 2005-01541, Noelle Zulli-Adams, to allow a 12-month time extension. Is the applicant present?

Your name for the record?

MS. ZULLI-ADAMS: Noelle Zulli-Adams.

CHAIRPERSON KONYK: Okay. Checking, nobody here from the public here to speak on this item?

(No response.)

CHAIRPERSON KONYK: Any letters? No?

MR. SEAMAN: No, there are none.

CHAIRPERSON KONYK: Is there somebody here to speak on this item?

UNIDENTIFIED SPEAKER: I'm sorry. The one that you just postponed, 01564, Ellie Halperin, I'm here to speak in opposition to that.

CHAIRPERSON KONYK: Okay. That's postponed. It will be at the next meeting. It's by right. Thank you. January 19th.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRPERSON KONYK: Back to -- any Board member feel this item should not have a time extension?

(No response.)

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

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on **8/18/2007**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The development order for this particular variance shall lapse on **8/18/2008**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **November 18, 2005**, the applicant shall

have applied and received a building permit, and have the building inspection completed for the existing accessory structure. A copy of the Board of Adjustment result letter shall be submitted with the building permit application. (DATE: BUILDING: ZONING)

IS HEREBY AMENDED TO READ:

1. By **November 18, 2006**, the applicant shall have applied and received a building permit, and have the building inspection completed for the existing accessory structure. A copy of the Board of Adjustment result letter shall be submitted with the building permit application. (DATE: BUILDING: ZONING)

CHAIRPERSON KONYK: Next item is a time extension 2005-01548, Kilday & Associates for Curtis and Jean Lewis, 12 month time extension. Your name for the record?

MR. BRENT: Damian Brent, Kilday & Associates.

CHAIRPERSON KONYK: Any member of the public here on this item?

(No response.)

CHAIRPERSON KONYK: Any Board member feel this item should not receive a 12-month extension? Is this by right?

MR. SEAMAN: It's an extension. BATE.

CHAIRPERSON KONYK: Oh, I'm sorry. I'm thinking postponement.

MR. SEAMAN: I know you get --

CHAIRPERSON KONYK: It stays on Consent then. Sorry.

DEVELOPMENT ORDER

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

IS HEREBY AMENDED TO READ:

The Development Order for this particular variance shall lapse on **April 21, 2007**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. The owner shall cease permitting restaurant patrons from using back-out parking onto Shawnee Avenue immediately. **(COMPLETED)**
2. The applicant shall install plant materials as required, pursuant to Article 7 of the ULDC, within all reduced compatibility and incompatibility buffers along property lines at the West, South and East parking lots. **(COMPLETED)**
3. By **October 21, 2005**, the applicant shall install between the existing chain link fence and road rights of way, a 6 ft. (at time of planting) ficus hedge with a minimum spacing of 24" apart. The requirement is applicable to the West, South, and East parking lots. Safe corner clips shall be landscaped per Article 7, Section 13 (Corner Clips).

IS HEREBY AMENDED TO READ:

3. By **October 21, 2006**, the applicant shall install between the existing chain link fence and road rights of way, a 6 ft. (at time of planting) ficus hedge with a minimum spacing of 24" apart. The requirement is applicable to the West, South, and East parking lots. Safe corner clips shall be landscaped per Article 7, Section 13 (Corner Clips).
4. By **October 21, 2005**, the applicant shall pave the West parking lot (employee parking), as required by Article 6 of the ULDC.

IS HEREBY AMENDED TO READ:

4. By **October 21, 2006**, the applicant shall pave the West parking lot (employee parking), as required by Article 6 of the ULDC.
5. By **June 21, 2005**, the owner shall remove existing striping at location of back-out parking onto Shawnee Avenue, saw cut a minimum of five feet of asphalt along south foundation of restaurant, and install landscaping approved by the landscape inspectors. **(COMPLETED)**

CHAIRPERSON KONYK: Time extension 2005-01549, Kilday & Associates, Estates of Pennock Point.

MR. WALTER: Good morning, Lindsay Walter with Kilday. We understand the conditions and the conditions are acceptable.

CHAIRPERSON KONYK: Okay. Well, those are the old conditions; right? They're not anything new; correct, Allan?

MR. SEAMAN: That's right. It's just an extension.

CHAIRPERSON KONYK: Any one here from the public?

(No response)

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

CHAIRPERSON KONYK: This item will remain on Consent.

DEVELOPMENT ORDER

The Development Order for this particular variance shall lapse on **11/18/2005**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The Development Order for this particular variance shall lapse on **11/18/2006**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **November 16, 2005**, the applicant shall obtain DRO certification and shall denote on the final site plan the conditions of approval for BA2004-645. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

1. By **November 16, 2006**, the applicant shall obtain DRO certification and shall denote on the final site plan the conditions of approval for BA2004-645. (DATE: MONITORING: ZONING)
2. Any modifications to the final Site Plan certified by DRO shall be consistent with the intent of the Board of Adjustment approval. Modifications to the Site Plan, by the applicant, during the review process shall be presented to BA staff to ensure consistency with this variance approval. (**ONGOING**)

CHAIRPERSON KONYK: BA2005-01566.
MS. MOTLEY: Susan Motley, Ruden McClosky,
here for the applicant.
CHAIRPERSON KONYK: Thank you. Staff has
recommended three conditions. Do you understand
and agree with that?
MS. MOTLEY: We do understand and we do
agree.
CHAIRPERSON KONYK: Does anybody -- is
there anyone from the public here to speak against
this item?
(No response.)
CHAIRPERSON KONYK: Any letters?
MR. SEAMAN: I need to interject.
CHAIRPERSON KONYK: You need to object?
MR. SEAMAN: I need to interject. You
work for the --
MS. MOTLEY: I'm one of the attorneys with
Ruden McClosky. Kim Glas-Castro is here as well.
MR. SEAMAN: So consent includes you
within the umbrella of the company?
MS. MOTLEY: Yes, it does.
MR. SEAMAN: Thank you.
VICE CHAIRMAN BASEHART: It's perfunctory.
CHAIRPERSON KONYK: It's perfunctory.
Okay. Any letters?
MR. SEAMAN: There are none.
CHAIRPERSON KONYK: Any Board member feel
this item warrants a full hearing?
(No response.)
CHAIRPERSON KONYK: Seeing none, this item
will remain on Consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/06**, 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 (**12/15/08**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **December 15, 2009** or prior to DRO certification, the applicant shall amend the site plan to reflect the variance approval pursuant to BA2005-1566. (DATE: MONITORING: DRO)

CHAIRPERSON KONYK: Next item on Consent is BA2005-01569, Kilday & Associates, agent for GL Homes.

MS. CONOVER: Shayne Conover with Kilday & Associates.

CHAIRPERSON KONYK: Did you all at least ride in one car? No? Okay. Good. I kind of understand why you have to send three different people, but I think it's so they can bill three different times; is that it? Just joking.

Okay. Staff has recommended three conditions. Do you understand and agree with those?

MS. CONOVER: Yes, we do.

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

(No response.)

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: Seeing none, this item will remain on Consent. You can have a seat unless you're here for the next one.

MS. CONOVER: I am.

CHAIRPERSON KONYK: Oh, that was good. I guess you don't have anybody else at the office, right?

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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 (**12/15/2008**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By 12/15/2006, the approved site plan for Collier PUD (P-04-15) shall be amended to reflect the variance approval pursuant to BA2005-1569. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BA2005-01570.

MS. CONOVER: Shayne Conover with Kilday & Associates.

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

MS. CONOVER: Yes, I do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: No.

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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 (**12/15/2008**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **12/15/2006**, the approved site plan for Fogg South PUD (P-02-69) shall be amended to reflect the variance approval pursuant to BA2005-1570. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BA2005-01573, Frogner Consulting for Roz Belford. You know the drill. Okay.

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

MR. FROGNER: Yes, I do.

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

We have opposition. Okay. I need you to come forward and state your name.

What's your objection? Is it directly related to the variance?

MR. DUTRA: Excuse me about my English because I'm not too much good in my English. But what I signed before some letter by this gentleman. I don't know what I signed it. I'm against to building this patio against my house. It's blocking my view and I'm against it to build this and also my privacy.

CHAIRPERSON KONYK: Okay.

MR. DUTRA: And I sent another letter, one of those gentlemen --

CHAIRPERSON KONYK: Okay. We're going to have to pull this. Could you both have a seat? This will be reordered to the Regular Agenda. Have a seat.

MR. DUTRA: Thank you.

CHAIRPERSON KONYK: Okay. Next item on Consent is BA2005-01579, Hippocrates, et cetera. Staff has recommended -- I'm not going to read them. Staff has recommended three conditions. Do you understand and agree with those?

MR. MILLER: I do. For the record, Bradley Miller from Miller Land Planning Consultants and we understand the conditions and agree.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One that's in support.

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

(No response.)

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

MR. MILLER: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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 for the proposed circular building on PCN 00-42-43-27-05-003-0070. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**12/15/2008**), the project shall have

received and passed the first building inspection. (BUILDING: DATE: ZONING)

3. The approved site plan for Hippocrates Health Institute (**P-87-32 B**) shall be amended to reflect the variance approval pursuant to BA2005-1579. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BA2005-01581, Sign Craft for Payless Shoe Source, to allow proposed wall sign to be installed on a side facade.

Your name for the record?

MS. STUARD: Janene Stuard, Sign Craft.

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

MS. STUARD: I do. I just have two questions. It says up here on the first one, the survey, that's resolved. So we don't need anything there; correct?

MR. SEAMAN: Correct.

MS. STUARD: Okay. What's the turn around time for the letter, the approval letter?

MR. SEAMAN: Day after tomorrow.

MS. JAMES: Do you need it faxed?

MS. STUARD: We'd love that if we could.

MS. JAMES: Okay. Meet me after and I'll get the number to fax it.

MS. STUARD: Okay. That's it.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There is one in support.

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

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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, with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration

- (12/15/2006), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. The approved site plan for Fox North MUPD (P-74-81) shall be amended through the DRO section to reflect the variance approval pursuant to BA2005-1581. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: Time extension, Chuck Millar, agent for AT&T, to allow a 12-month time extension on the development order and condition.

Name for the record?

MR. MILLAR: Good morning. Chuck Millar with Moyle Flanigan. We accept the condition.

CHAIRPERSON KONYK: You already did that, but that's okay. That's nice.

MR. MILLAR: For the record.

CHAIRPERSON KONYK: Any member of the public against this item being extended?

(No response.)

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

(No response.)

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

MR. MILLAR: Thank you.

DEVELOPMENT ORDER

The Development Order for this particular variance shall lapse on **November 18, 2005**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The Development Order for this particular variance shall lapse on **November 18, 2006**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **November 18, 2005**, the applicant shall obtain a building permit for the proposed development in order to vest the variance approved pursuant to BA2004-649. (DATE: MONITORING-BLDG PERMIT)

IS HEREBY AMENDED TO READ:

1. By **November 18, 2005**, the applicant shall

obtain a building permit for the proposed development in order to vest the variance approved pursuant to BA2004-649. (DATE: MONITORING-BLDG PERMIT)

CHAIRPERSON KONYK: Time extension 2005-01613. Name for the record?

MS. LINDSEY: Jean Lindsey, JPR Planning Services.

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

(No response.)

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

(No response.)

CHAIRPERSON KONYK: Seeing none, this time extension will remain on Consent.

DEVELOPMENT ORDER

The Development Order for this particular variance shall lapse on **November 18, 2005**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The Development Order for this particular variance shall lapse on **November 18, 2006**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **November 18, 2005**, the applicant shall obtain a building permit in order to vest the variances subject to this application as well as provide the Building Division Intake Section with a copy of the Board of Adjustment result letter and a copy of the DRO certified Site Plan Exhibit. (DATE: MONITORING-BLDG PERMIT)

IS HEREBY AMENDED TO READ:

1. By **November 18, 2006**, the applicant shall obtain a building permit in order to vest the variances subject to this application as well as provide the Building Division Intake Section with a copy of the Board of Adjustment result letter and a copy of the DRO certified Site Plan Exhibit. (DATE: MONITORING-BLDG PERMIT)

2. By **November 18, 2005**, the applicant shall obtain DRC certification and the final site plan shall denote the conditions of approval of BA2004-616. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

2. By **November 18, 2006**, the applicant shall obtain DRC certification and the final site plan shall denote the conditions of approval of BA2004-616. (DATE: MONITORING: ZONING)

CHAIRPERSON KONYK: Time extension 2005-01634. Name for the record?

MS. McGLONE: Carlene McGlone.

CHAIRPERSON KONYK: Anyone here from the public here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any Board member feel this item does not warrant a full -- I mean, a 12 month extension?

(No response.)

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

DEVELOPMENT ORDER

The Development Order for this particular variance shall lapse on **December 16, 2005**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The Development Order for this particular variance shall lapse on **December 16, 2006**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By **December 16, 2005**, the applicant shall obtain a building permit for the proposed Guest house in order to vest the variance approved pursuant to BA2004-595. (DATE: MONITORING-BLDG PERMIT)

IS HEREBY AMENDED TO READ:

1. By **December 16, 2006**, the applicant shall obtain a building permit for the proposed Guest house in order to vest the variance

approved pursuant to BA2004-595. (DATE:
MONITORING-BLDG PERMIT)

CHAIRPERSON KONYK: Okay. Let me recap on this one. We have on consent a BATE2005-01541; BATE2005-01548; BATE2005-01549; BA2005-01566; BA2005 -- could you guys be quiet, please? Could we have quiet in the audience, please? Okay. BA2005-01569; BA2005-01570; BA2005-01579; BA2005-01581; BATE2005-01603; BATE2005-01613 -- 01613, did I say 13 last time or 03? Let me just read it again. BA2005-01603 and BA2005-01613; BA2005-01634 are all on Consent.

We had a postponed item, BA2005-01567 and we had an item that was reordered to the Regular Agenda, BA2005-01573.

VICE CHAIRMAN BASEHART: Madam Chair, I'd like to make a motion that the Consent Agenda as amended be approved with each item having the conditions of approval that the applicants agreed to and I'd like the record to reflect that the staff report for each item will be the record of the hearing.

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

MR. MISROCH: Second.

CHAIRPERSON KONYK: Second by Mr. Misroch. Any discussion?

(No response.)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously. And we're going to take about a three minute break so the room can clear.

(Whereupon, a short recess was had.)

CHAIRPERSON KONYK: Could you please sit down, Mr. Conrad? Could you sit down? We're having a meeting. I'd like to get this meeting going. We have two meetings to go through.

All right. Now we're going to go back to the items that are on the Regular Agenda that should have been on the November meeting postponed.

And the first item that we'll hear is BA2005-01217. We'll have the staff introduce the item, the legal.

MR. SEAMAN: Now?

CHAIRPERSON KONYK: I'm ready. Are you?

MR. SEAMAN: I'm not sure. I'll try.

This is the petition of Dror Tregar, agent for Anya Group, Incorporated, owner, to allow an existing single family dwelling to encroach into the required front setback.

The location is 4335 North Federal Highway on the northeast corner of U.S. Highway 1 and Turner Road in the RS Zoning District. And we have a number of conditions on page 1 through 4. And staff is recommending approval for this --

CHAIRPERSON KONYK: Whoa, whoa, whoa. Just read the legal. That's all. You don't do this often, I realize that.

MR. SEAMAN: And, also, I'd like to interject --

CHAIRPERSON KONYK: You can't interject.

MR. SEAMAN: You know, that one of the conditions -- one of the variances that was put on here is not correct. There is no need for a rear setback variance. That was a mistake by staff putting that in there.

So the only variance that they're asking for is a setback from the required 25-foot front setback and they're proposing 20.15 which will be a variance of 4.85 feet.

CHAIRPERSON KONYK: Okay. Can we hear from the applicant?

MR. KNIGHT: Good morning again. My name is Gerry Knight and I'm an attorney and I represent the applicant.

With me this morning is Dror Tregar who is the applicant on behalf of the Anya Group. Also with me is George Matthews who is the real estate attorney for the Anya Group. Also is Jim Hagar --

CHAIRPERSON KONYK: Whoa. She can't hear you.

MR. KNIGHT: I'm sorry. Also is Jim Hagar who is a surveyor, he's here. Doug Winter is an engineer and he's here. We also have a real estate agent who is Mary Pachuk (ph), right, and there's a neighbor here, too, I believe.

CHAIRPERSON KONYK: So it looks like when this one is over we're going to clear this room pretty good.

MR. KNIGHT: Yes.

CHAIRPERSON KONYK: Okay, good.

MR. KNIGHT: We have most of the people here.

CHAIRPERSON KONYK: Okay, go ahead.

MR. KNIGHT: Also, I believe staff has some forms from some other neighbors who are supporting this petition.

CHAIRPERSON KONYK: Well, we're here to

hear about one variance, although our report says two.

MR. SEAMAN: Correct.

CHAIRPERSON KONYK: And it's a three-and-a-half foot --

MR. KNIGHT: A 4.85 foot front yard setback variance.

CHAIRPERSON KONYK: Okay. So would you like to give us your justification?

MR. KNIGHT: Before I do that, let me just give you a little history and I don't want to belabor this, but we were here, just so you know, I don't know if all of you were here. But we were here in February of last year for this same variance.

CHAIRPERSON KONYK: Weren't you here in October, too?

MR. KNIGHT: I think we may have started even earlier than that, but we had a -- I believe we had a hearing in February, but anyway, we've been here before a long time ago.

After we made a presentation, the item was deferred so that we could resolve an issue not with respect to this variance on the Federal Highway side but on the north side of the property where DOT has some right-of-way, ten feet of right-of-way unbeknownst to us at the time, that the house was built came up later because it wasn't actually recorded in the public records and it didn't show up in the title search. But it turns out they had a ten foot of right-of-way for a drainage pipe along the northern boundary.

So we went and met with DOT, met with the County, worked out all that issue. And as a result, we have an agreement with DOT. The reason it was deferred at that time was because if -- it was the Board's view that if we needed a variance for the north side, too, they didn't want to do it piecemeal, they wanted to do it all at once. So they deferred the variance request for the Federal Highway side on the west side until that was resolved. So we have now resolved it.

I'd like to hand out a book here.

CHAIRPERSON KONYK: Can we have a motion to accept this into the record?

MR. MISROCH: So moved.

MS. CARDONE: Second.

CHAIRPERSON KONYK: Motion by Mr. Misroch, second by Ms. Cardone.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously.

MR. KNIGHT: The variance from -- it's actually in Table 3.D.1.A-5 of the Code, requires a 25-foot front yard setback, and the building that we're talking about which is actually an existing home at this point except it hasn't been completed, was constructed more than 25 feet back from the right-of-way line, but what the Code says

is that the 25 foot setback is measured from the base building line.

When we got ready to go in and apply for a permit, we met with the County Engineer. And under your Code if you look at Section -- it's under D.1 under that table -- it allows the County Engineer to establish the base building line.

The County Engineer established the base building line along Federal Highway at ten feet. So, in effect, what that meant was the house had to be set back 35 feet from the property line or 25 feet from the base building line. So that's the requirement that we had to meet.

The house -- if you look under Tab 1 of the booklet I handed out, you'll see kind of a diagram of what I'm talking about. The diagram shows the 10-foot base building line along Federal Highway. It shows the Code required 25 feet if measured from the right-of-way line and then it shows the 35-foot setback requirement since the 25 feet is measured from the base building line.

And you'll see on the survey how the house encroaches into the setback. It encroaches basically at the angles that jut out into the setback. The front of the house if you look at the staff report, you'll see photos of it, the front of the house is not flat. It has some architectural features and those, the wall as it changes in direction encroaches into the setback.

The reason for the problem as it turned out was at the time the house was staked out, the form boards were installed and staked out for the foundation and a survey was done, there was an error made and the building inspector that inspected that and signed off on it did not recognize the error. The house got built and got up to the roof level. The roof is on.

And at that point, there was a recognition by the inspector that the house did encroach into the setback and that's when the work stopped on the house. But at the time the form boards were staked out for the foundation and the survey for the form boards was done and submitted to the Building Department building inspector, the building inspector did sign off on it and it got built.

And so it was basically a mistake and as a result the house now encroaches into the setback.

If you look behind -- I believe it's behind Tab 4, I included a copy of the sheet from the Building Department records showing the sign-off of the inspector on the foundation or on the form boards. So that's what happened. There was a mistake made. The house got built and it's now in the setback. And that's why we're asking for the variance.

The staff has gone through the different elements of the -- under the Code, the criteria for obtaining a variance and I cannot add much to what they've said in their report and I adopt

their report by reference. I think it addresses all those criteria very well and recommends approval of the variance.

I would like to point out a few things, though. This is an unusually shaped lot if you look at the survey. I think part of the problem that led to the mistake was the fact that the lot is unusually shaped. It's not symmetrical. It's not a square lot or rectangular lot. It has some different angles to it.

Also, I want to point out that in the area of this property if you look behind Tab 5 in the booklet, there are photos of other structures along Federal Highway in the vicinity of this property. As you can see and as indicated in the staff report, no -- very few structures, if any, along Federal Highway actually meet any kind of setback in terms of 25 feet or 35 feet. Some of these structures are as close as 12 feet or 10 feet to the right-of-way.

So in fact, if you grant this variance, we would not be getting a benefit that didn't already exist in there or didn't accrue to others because the setbacks of those other structures along there are even less than what this house is.

So basically we're here today to ask for something that does not give us any special advantage.

Now, the DOT, when we were here before, as I said, there was an issue with respect to the northern boundary of the property, not the boundary of the property on the variance, and we went to DOT and we worked out an agreement with DOT. And I've provided a copy of it to you in the back-up. It's behind Tab 3.

CHAIRPERSON KONYK: If this doesn't have to do with this variance, we don't want to hear about it.

MR. KNIGHT: Well, it does relate to the variance in a way.

CHAIRPERSON KONYK: Okay.

MR. KNIGHT: We cured the issue that the Board was concerned with when we were here before by entering into this agreement with DOT. And what this agreement provides is that DOT will deed the right-of-way, the 7-1/2 feet they have along the northern boundary or 10 feet to our client. In exchange, our client will give them back an easement for their drainage pipe.

It also says that our client will actually re-line the pipe at its expense and provide the right-of-way and easement all the way to the seawall, which -- and the reason we can do that now is because our client while this item was deferred acquired the triangular piece next to the seawall from Palm Beach County.

And I provided a copy of the Deed in the booklet, too, showing that we acquired the triangular piece immediately adjacent to the seawall. So the pipe -- we can provide an easement all the way to the seawall for DOT.

We've also agreed to re-line the pipe at

our expense. All of this is subject to us obtaining the variance that we need to go forward with this project because if we can't go forward with the project, we can't obviously afford to do any of that work. So it does relate to the variance in that respect.

So we've resolved all the issues with DOT, but we're back here today basically asking to go forward with this variance request with staff's recommendation of approval.

We agreed to the conditions as modified by Mr. Seaman earlier. And I would like to reserve time for rebuttal for a few minutes at least.

CHAIRPERSON KONYK: Well, we would always hear from you after the opposition.

Mr. Conrad, I think you have some opposition on this item?

MR. CONRAD: Absolutely.

CHAIRPERSON KONYK: If you could come forward and give us your name for the record and tell us what your issues are?

MR. MIKULEC: My name is Conrad Mikulec and Season's Greetings from the north land, from Buffalo, New York, home of the snow capital of the world, I guess. I'd like to hand out some things to you. Who on staff gets copies?

CHAIRPERSON KONYK: Make that a motion to accept that into the record.

VICE CHAIRMAN BASEHART: So moved.

MR. MISROCH: Second.

CHAIRPERSON KONYK: Motion by Mr. Basehart. Second by Mr. Misroch.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries.

I'm sorry. I thought your last name was Conrad.

MR. MIKULEC: That's okay. I go by Conrad.

CHAIRPERSON KONYK: Do you have a presentation or do you want us to read this letter?

MR. MIKULEC: I'd like you to read it, if you would, yes.

CHAIRPERSON KONYK: Actually, we really probably should have it read into the record. If you would read it to us?

MR. MIKULEC: Okay. "The permit status below is the property directly south of my property on U.S. 1. Roland Holt knew the history of this project and is no longer with Palm Beach County. I have reported the economic demise and devaluation of my property for one-and-a-half years to the County Building and Zoning Board. My neighbor's actions prohibit me from completing my office building. The pilings are presently installed and located on my property. It would no longer be usable in accordance to the plans and previously approved by the Palm Beach Building Department.

"The location of the building was based on the setback requirements of the County of Palm Beach. The visual commercial value of the property has changed considerably. If I have to junk all ... very economically costly --" it would be very economically costly, rather.

"If my neighbor is allowed to continue his construction, I must put in all new pilings and go back to the drawing board with complete new plans, moving my building up to U.S. 1 instead of having the building setback off of U.S. Highway 1. I must move the building forward on the property exposing it to maximum commercial visible viable exposure to traffic, using the northern U.S. 1 lane. The option is not only costly but puts all of the parking behind the building on the water canal on the Intracoastal." It's not the Intracoastal. It's a canal owned by Palm Beach. It's not the Intracoastal. I take that back, all right. There should be a change in that.

"The visual exposure angle changes drastically because of the location of his home and how it is now positioned due to him building both on the DOT right-of-way..." -- which he is by the way, he is 4-1/2 foot with his overhang on the right-of-way, so from U.S. 1 when you position that coming from the south to the north, and then he's almost five foot forward, he cuts off my angle and my building is way to the back side. The pilings are in ready to go on this thing and we cannot move forward any further because of the fact that I'm going to have to change it all. It's going to cost me a couple hundred thousand dollars to do that and put the building up closer to the forward area on U.S. 1.

"The 19 items committed by my neighbor are as follows: violated the 35 foot Palm Beach County U.S. Highway front setback requirements; 2, violated the 15 foot Palm Beach County rear setback requirements; 3, water front is valuable. Build his seawall five foot forward of his property, reducing his southeast neighbors' water frontage by five foot."

Let me explain that. Suppose I --

CHAIRPERSON KONYK: Sir, that doesn't have anything to do with this variance.

MR. MIKULEC: Well, he's talked about it.

Don't I have a right to speak about it?

CHAIRPERSON KONYK: Well, I mean, we're not listening to -- the only thing we're concerned with is the --

MR. MIKULEC: Well, it has -- okay, go ahead. I'm sorry.

CHAIRPERSON KONYK: I'm sorry. We're not a public hearing board. We're here to hear about the 4.58 foot variance. I cautioned the applicant as well that we didn't really want to hear items that weren't strictly related to this variance. It's not going to change our opinion of what the seven criteria, what has or has not been met.

It has nothing to do with the issue that we have to address today, which is the front

setback.

MR. MIKULEC: Well, according to the official documents that I've had now for what, two months since the storm, it does say about the back setback and it's on the --

CHAIRPERSON KONYK: We've already resolved that issue, though.

MR. MIKULEC: You may have resolved it, but I was here -- you know --

CHAIRPERSON KONYK: It was already resolved that that did not require a variance.

MR. MIKULEC: Yes, it does because the accuracy of the surveyor's figures are off by feet, not inches.

CHAIRPERSON KONYK: Do you have a survey to prove that?

MR. MIKULEC: I have a survey to prove that, yes, and I personally went out and took pictures yesterday and --

CHAIRPERSON KONYK: Do you have a survey from a surveyor that certifies what you're saying?

MR. MIKULEC: The surveyor that I wanted to show up here today because of the storm and that was unable to come here to do that.

CHAIRPERSON KONYK: But didn't he do a survey?

MR. MIKULEC: He did my survey and he did Nancy Flaherty's survey back there and she has the figures of hers and mine, and there's big number differences, okay.

CHAIRPERSON KONYK: Do you have his survey? Did you survey his property, the property in question?

MR. MIKULEC: The property in question has always been in question by the 19 points here. There are so many variances on his property and what the surveyor has accurately supposedly been inaccurate.

And the inaccuracies are so much that I would like an admission on his part that he made these mistakes on the form boards in the first place. I mean, if we --

CHAIRPERSON KONYK: Okay, he admitted that already. They said that at the very beginning.

MR. MIKULEC: He said it was the fault of the Building Department and the inspector, but he only went by the numbers that were provided by the surveyor. The surveyor made the mistake and if he made that mistake we should have that accurately exposed.

CHAIRPERSON KONYK: Okay. Well, I'm going to tell you again that we're sticking to the item at hand, which is the variance for the front setback, so I mean, if it makes you feel better to go through all this real quickly, then go ahead.

We're only going to be considering the variance in the front of the property.

MR. MIKULEC: But Madam Chairman, it was brought to my attention almost three years ago when Mr. Tregar bought the property, he called me and he asked me if he could buy my property. And I said no.

He said, "I need the property next to me."
I said, why is that?

He said, "Because I have a drainage there
and I want to build a big house."

CHAIRPERSON KONYK: All hearsay. Can we
get to the issue here?

MR. MIKULEC: It'll be not hearsay because
there's other witnesses, okay?

CHAIRPERSON KONYK: It's hearsay, please,
trust me.

MR. MIKULEC: Well, in a Court of law it
will be different because it will go that far,
okay. If we don't settle it here. It's going to
go all the way.

CHAIRPERSON KONYK: Whatever.

MR. MIKULEC: So what I'm saying to you is
it was a matter of statements by him and he called
to try to get --

CHAIRPERSON KONYK: Can we please get back
to the variance?

MR. MIKULEC: Yeah, I'm going to the
variance because the variance -- since he talked
about the drainage off of U.S. 1 and he acquired
it, that's why we're here. And we're here because
of the way it's positioned in connection to my
property and my neighbor's property, and that has
a lot to do with it. I think that you should see
that. It's going to cost me \$200,000 more to move
my original plans.

CHAIRPERSON KONYK: Why do you have to
move -- just out of curiosity, not that it has
anything to do with the variance but you keep
talking about moving your building.

What does that have to do with this
variance? Why does this create a --

MR. MIKULEC: Because I have to put the
visibility, maximum visibility on my building
coming from the south to the north. In order to
do it, it's got to be moved forward.

CHAIRPERSON KONYK: So you mean your
building should be in front of any other building
on U.S. 1?

MR. MIKULEC: No, it should be at least
even. It shouldn't be -- you're going 45 miles an
hour on U.S. 1 and you're by my building because
his building is going to block it. I have to
change the whole architectural set-up of my
building, which is already -- the foundation is
already in for it.

CHAIRPERSON KONYK: I think that you
probably would find that on U.S. 1 you would find
buildings that are at different setbacks.

MR. MIKULEC: Well, that may be. Our
block is peculiar, though. It's the only building
on that block other than his house and it was set
up that way. And he knew that full well when we
had the conversations before that.

CHAIRPERSON KONYK: Okay. Can you get
back to the variance?

MR. MIKULEC: That's how this building is
going to affect me. It's going to affect me
economically.

And the accuracy of the figures are very doubtful. So I don't know, how do you want me to explain that?

CHAIRPERSON KONYK: Continue down your list. I'll let you finish your list.

MR. MIKULEC: Okay, all right. Which item are we on?

CHAIRPERSON KONYK: If you're asking me, I'm going to tell you 18.

MR. MIKULEC: I know, I know.

CHAIRPERSON KONYK: It's up to you to figure that one out.

MR. MIKULEC: Okay. He built his seawall five foot forward of his property line. Okay. That's another setback line, all right, reducing his southeast neighbor's frontage, water frontage by five foot. He reduces my water footage by five foot because he's extending it out.

He built his home and infringed 4-1/2 feet on the DOT property, instead of being 7-1/2 feet from the DOT right-of-way line. He is now located a total of 12 feet beyond the minimum Palm Beach County requirements on distances from right-of-ways.

Five. Expanded his seawall on Palm Beach County property without buying a title for the property from Palm Beach County and did it without a building permit.

Seven. Put his seawall three foot beyond making it impossible to dock a boat and increasing the probability of accidents because of the irregularity or geometry of having a pointed dock.

Eight. Put his house 42 inches -- his outhouse -- 42 inches on my property. I've been asking him for a year-and-a-half to remove it off my property. Doesn't do it.

Move power poles from the back of his property, buried all of his junk controls on my property and located the replacement poles on the front of my property without obtaining an easement, and I have pictures to prove that.

Elevated his property five feet above my property and my neighbor's property allowing the ground to fill in the Intracoastal, having only mud at low tide and pictures are available of the low tide in there and showing the mud in there.

Directed employees to dump oil and polluted water into the Intracoastal area, pictures and witnesses and samples, and I've got 100 pictures of it, and samples of the oil he dropped in there and not me alone. Three people.

Twelve. Dumped all the junk from his construction on my property that cost me five thousand dollars to remove it.

Trespassed and used my property without permission as a staging area to build his house. That's factual, too. We've got witnesses for that.

CHAIRPERSON KONYK: Okay.

MR. MIKULEC: Removed my trespassing signs off of my property.

Fifteen. Due to heavy machinery on my property, he broke up the new concrete brick and sidewalks on U.S. 1, which was paid for by the State, and to date has not done one thing to fix it. It's all rumble out there.

Sixteen. Continues to advertise that his house has a dock. There is no room for a dock, unless he steals additional property from neighbors.

Seventeen. No building permit has been applied for a building dock.

Eighteen. Has put his driveway entrance, both ingress and egress on U.S. 1, directly next to where the school bus stops. When I asked Palm Beach County permission to have an entrance only three years ago, they said no, they do not want additional entrances on U.S. 1 and it would be dangerous because the school bus stops and picks up children at that intersection.

And this gentleman here was working for the County at the time and would not allow me to do that because he said there's no entranceway going on that property at that place.

Nineteen. Now my neighbors say he has a video tape showing that he has not damaged the right-of-way or filled in the right-of-way. Our pictures show zero water at low tide. This all sounds like a man who just made a little miscalculation. Unfortunately for him, he did not know what he was doing.

I told him over three years ago on three different occasions that he could not build on the right-of-way because Mr. Allan Webb, who was the County Engineer, told me it was a small postage stamp lot. I told him that is why the original owner of the property back ten years ago was not going to pay the County \$5,000 for the use of the sewage system.

He said, Mr. Mikulec, that is why I am a builder and a land developer. I said, I am also a builder but I know how to play by the rules. He laughed and said, but I have the connections.

He must be connected because they allowed him to connect on 07/07/04. I and my wife paid the County \$5,000 ten years ago and I'm still waiting for my sewer to be connected.

CHAIRPERSON KONYK: Okay.

MR. MIKULEC: End of story.

CHAIRPERSON KONYK: Are you sure?

MR. MIKULEC: Yeah.

CHAIRPERSON KONYK: Okay. Wait. Before you start, we're here to hear about a 4-1/2 foot variance on the front property line. Most of what you've complained about are obviously issues of contention that you have with this developer, but they really don't relate to the variance.

And you have a legal remedy; you can take him to Court, Civil Court, on those issues.

MR. MIKULEC: Yeah, but my property --

CHAIRPERSON KONYK: It's not an issue for us, though, I'm sorry. So let's get back to the issue at hand.

You've had your say. You may have a seat. We're going to hear from the applicant on rebuttal.

MR. MIKULEC: All right.

MR. KNIGHT: Where do I start? I will not address the --

CHAIRPERSON KONYK: Just address the -- I want to hear about the front variance because that's all we're here to hear. I mean, I realize you all want to have your time to say what you want to say, but I'm going to be firm about this now. It's only about the variance.

If it has nothing to do with the variance, if those issues that he brought up have nothing to do with the variance, don't even go back over them. That's something you can all take care of in another forum. Not here.

MR. KNIGHT: I totally agree a hundred percent. In fact, just so there was something in the record. We did respond. We got this e-mail or letter or whatever it is from this gentleman and we responded item by item in a letter back to the Zoning Department a couple of days ago.

CHAIRPERSON KONYK: Okay, great.

MR. KNIGHT: Trying to sift through this and find anything that relates to this variance request is very difficult because as I read it, 99 9/10ths percent of it doesn't relate to the variance request.

Mr. Mikulec's property is to the north of us. It's zoned I believe CG or it's zoned commercial. It's not residential and it would have its own setback requirement in terms of the Code if it's in the incorporated area, which it is today, and as I understand the Code setback on front yards for CG, if that's what it's zoned, it's even more of a setback than residential.

And he would have the same opportunity that we have with respect to meeting with the County Engineer to establish the base building line. The precedent has been set; we're just to the south of him, so I assume he would have the same base building line that we do for his setback. Then his setback would be measured based on what the Code says.

By the way, his land is vacant. There is no building there. He's talking about his building, his building. There is no building. What he's talking about is pilings that he may have put in in anticipation that there might be a building there some day. We don't know where those pilings are. There's no evidence of that here in the record.

VICE CHAIRMAN BASEHART: Were they permitted?

MR. KNIGHT: We don't even know if a permit was issued.

MR. MIKULEC: Yes, they were permitted.

MR. KNIGHT: We don't have a permit. In fact, we kind of looked for one and couldn't find one.

I don't want to get back into the seawall,

but it's on the other side of the property. It hasn't got anything to do with the variance.

CHAIRPERSON KONYK: So it's not -- right.

MR. KNIGHT: The DOT right-of-way issue is resolved. Once this variance is granted, if it is, if the Board grants it, we will then exchange the deed and the easement with DOT and we will no longer be encroaching in the DOT right-of-way because we'll own it, not DOT, and they'll have an easement back for the rest of the 7-1/2 feet where their pipe is located and we'll re-line their pipe at our expense.

Just for the record, I know you don't want to hear this, but many of the statements made by Mr. Mikulec both in his letter and today at this hearing are not correct. They're false.

CHAIRPERSON KONYK: That's not for us to decide.

MR. KNIGHT: They're misinformation intended to confuse and obfuscate the real issue here.

CHAIRPERSON KONYK: We're only going to talk about the four --

MR. KNIGHT: I just want to say that for the record, and I'll be glad to answer any other questions that the Board might have. And we have other experts and professionals here today to answer any questions you may have.

CHAIRPERSON KONYK: Okay. Any Board member have any question of anyone?

MR. JACOBS: Yeah, I have a question for Mr. Mikulec.

MR. MIKULEC: Yes, sir. Do you want me to come forward?

MR. JACOBS: Yes, please. Your testimony is that granting the variance would make building a proposed office building by you impossible?

MR. MIKULEC: No, it's not impossible. It means I'll have to junk the pilings that are in already and change the plans so that the parking will be in the rear rather than in the front where I wanted it originally.

So I can move the building up because it's going to be an office building and to give it maximum visibility for the traffic on U.S. 1, so that I'll have to go forward with it instead of leaving it where it is right now.

MR. JACOBS: And your pilings were permitted?

MR. MIKULEC: Yes, they were, yes.

MR. JACOBS: And what did they cost you?

CHAIRPERSON KONYK: Wait a minute, Mr. Jacobs. This doesn't have anything to do with it really, honestly.

MR. JACOBS: May I ask my question, please, Madam Chairman?

CHAIRPERSON KONYK: Stick to the variance.

MR. MIKULEC: I'm going to say about 20, \$20,000.

MR. JACOBS: Thank you.

MR. MIKULEC: The plans are another 80,000.

CHAIRPERSON KONYK: Okay. Public portion of the hearing is closed. You can have a seat.

MR. KNIGHT: In response to that question, I just want to add one more thing.

What we're talking about is 4.85 feet encroachment. If that 4.85 foot encroachment went away, I can't believe that it's the 4.85 foot encroachment that's going to be blocking the visibility of the --

CHAIRPERSON KONYK: What is the setback on the commercial property?

MR. SEAMAN: Fifty feet.

CHAIRPERSON KONYK: Fifty feet.

MR. SEAMAN: For front.

CHAIRPERSON KONYK: And this is 25?

MR. KNIGHT: From the building setback, from the base building line.

CHAIRPERSON KONYK: Okay.

MR. KNIGHT: So we're only talking about 4-1/2 feet blocking --

CHAIRPERSON KONYK: But the thing is the setback is 50 feet anyway.

MR. KNIGHT: Yes.

CHAIRPERSON KONYK: So 50 feet and 25 feet would be 25 feet, your building's going to block your whatever.

MR. KNIGHT: And it won't block the view.

I've driven along there. Nothing is going to block --

CHAIRPERSON KONYK: Do you want to say something?

MR. MIKULEC: Yeah, it's not only 4-1/2 feet this way or four feet or whatever it is, but it's also on 4-1/2 feet from my property where it should be 7-1/2 feet from my property. He built on the right-of-way there that's owned by the Department of Transportation, so when you consider both of them at an angle, you get the geometry of it, you're much closer up forward and over closer that even blocks the view of my building.

VICE CHAIRMAN BASEHART: The point it, though, that the former encroachment along the side or the rear has been removed by the deal that was made with the DOT and the County. That's why that variance was removed from our consideration.

There is no variance needed on the --

MR. SEAMAN: That's partially right. The issue that he's referring to in the easement, there was an encroachment before, that was the issue.

But the rear setback that I said was not part of this was mistakenly put on and it shouldn't have been there.

VICE CHAIRMAN BASEHART: Okay. So we're considering a 4.85 foot front setback variance and no other variances are on the table.

MR. SEAMAN: Correct.

VICE CHAIRMAN BASEHART: That's all we're considering.

MR. MIKULEC: There should be another variance of 7-1/2 feet from my property. He's already on the Intracoastal right-of-way there,

which he's 4-1/2 feet from my property. They're not talking about that.

CHAIRPERSON KONYK: Okay.

MR. KNIGHT: We do not need a variance on his side, on the north side, because we reached an agreement with DOT, that they're going to convey their right-of-way to us and that will solve that issue, so we do not need a variance on the north side, just to clarify.

VICE CHAIRMAN BASEHART: Okay.

MR. MIKULEC: What is the -- I'd like to understand. Is that true? You don't need a variance; you don't have to abide by the 7-1/2 foot away from it if he buys the piece of property that's owned by the DOT?

CHAIRPERSON KONYK: I think they're combining the property, is that what --

VICE CHAIRMAN BASEHART: If he buys the property, it's part of his site and it can be counted toward his setback.

MR. MIKULEC: But, still, it's still 4-1/2 feet from my property line.

MR. KNIGHT: No, it's 7-1/2.

MR. MIKULEC: No, it isn't.

MR. KNIGHT: It's more than 7-1/2 feet. The right-of-way -- the DOT right-of-way is ten feet wide.

CHAIRPERSON KONYK: So you've added ten feet.

MR. KNIGHT: We're encroaching into that ten a few feet. Once we acquire that right-of-way, we'll own 7-1/2 feet between our house and the property line.

CHAIRPERSON KONYK: Right.

MR. KNIGHT: And we'll meet the setback.

VICE CHAIRMAN BASEHART: And the survey shows that and the staff has reviewed it and the staff agrees with it.

MR. SEAMAN: The easement will go away.

VICE CHAIRMAN BASEHART: Okay. So it's off the table then, period.

MR. MIKULEC: Let me make a comment. If you're looking at the survey, the actual dimension on the property -- his house, his house, even though it's built on the DOT right-of-way, he's exactly 5-1/2 feet from my property line. He's 4-1/2 feet on the DOT line. That's the total dimension. He's not accurately showing the overhang, he's not actually showing all that. He's not 7-1/2 feet away. He's 5-1/2 feet away.

MR. SEAMAN: Our survey shows differently.

MR. KNIGHT: I don't want to belabor this, but if you look at the last tab in your booklet and you look on the north side of the property, you'll see the distance between the wall and the property line at the closest dimension is 7.75 feet.

So we will meet the 7-1/2 foot setback required on that side once the DOT gives us the right-of-way -- we swap the right-of-way for an easement for the pipe. And that will solve that issue.

VICE CHAIRMAN BASEHART: Okay.

MR. KNIGHT: And the agreement to do that is in your backup.

MS. CARDONE: Madam Chairman?

CHAIRPERSON KONYK: Yes?

MS. CARDONE: If you're prepared for a motion, I'm prepared to make one.

CHAIRPERSON KONYK: Certainly.

MS. CARDONE: Referring to Agenda item BA2005-01217, the variance that is being asked of this Board for 4.85 feet, I move to approve this variance.

I believe that the seven criteria have been met by the applicant, although we have heard testimony before us today that has sometimes conflicted. I am going to rely upon the information that has been presented to us formally by staff and note that some of the testimony given to us today was not relevant to the variance.

CHAIRPERSON KONYK: We have a motion by Ms. Cardone. Do we have a second?

MR. MISROCH: Second.

CHAIRPERSON KONYK: Second by Mr. Misroch.

Any discussion?

(No response.)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously.

MR. KNIGHT: Thank you very much.

BOARD OF ADJUSTMENT CONDITIONS

1. By **2/15/2006**, the applicant shall submit the Board of Adjustment result letter and a copy of the revised survey to the Building Division. (DATE: BUILDING: ZONING)
2. By **May 15, 2006**, the Applicant shall make application and receive all required permits for construction of a seawall or provide proof from any governmental agency that permits are not required. (DATE: BUILDING: ZONING)

CHAIRPERSON KONYK: Okay, a couple minutes break for the court reporter.

(Whereupon, a short recess was had.)

CHAIRPERSON KONYK: Okay. Back on the record.

There's a question here as to a condition that was modified at the beginning of the hearing and the County Attorney would just like us to poll the Board members to make sure that everybody was aware that when this was approved, it was approved with the condition as modified.

So is any -- I would just ask each Board member. Ask the question and then let them say if they were aware or not.

The question is, were you aware that the condition was modified?

MS. STABILITO: Mr. William Sadoff?

MR. SADOFF: Yes, I was aware; I am aware.

MS. STABILITO: Mr. Joseph Jacobs?

MR. JACOBS: Yes, I'm aware of it.

MS. STABILITO: Ms. Nancy Cardone?

MS. CARDONE: Yes.

MS. STABILITO: Ms. Chelle Konyk?

CHAIRPERSON KONYK: Yes.

MS. STABILITO: Mr. Robert Basehart?

VICE CHAIRMAN BASEHART: Yes.

MS. STABILITO: And Mr. Stanley Misroch?

MR. MISROCH: Yes.

CHAIRPERSON KONYK: Okay. So the record reflects that we were all aware when we voted on this item that that condition had been modified, which was condition number two. Okay. I didn't mean to -- sorry.

CHAIRPERSON KONYK: All right. Now we move on to the next item that was pulled from the Consent, which is BA2005-01449, Christopher Burch, to allow a proposed attached garage to encroach into the required front setback.

And if the staff will just read the legal, please? That's all, no more.

MR. GAMEZ: Christopher Burch, owner, to allow a proposed attached garage to encroach to the required front setback.

Location, 17971 122nd Drive North, approximately 280 feet south of Indiantown Road and approximately 0.28 miles west of Alexander Run within the Jupiter Farms subdivision in the AR Zoning District, Petition 2005-505.

CHAIRPERSON KONYK: Okay. All the Board members have received this report in advance of the meeting and if there's -- I'm going to ask you to not give your presentation right away.

I want to ask the Board members if they

feel they need to hear his presentation first or if they'd like to hear from the person that's objecting first.

VICE CHAIRMAN BASEHART: I think, you know, to save time I'd just like to hear from the objector. I've read the staff report. I know what you're asking for. I've got your justifications.

CHAIRPERSON KONYK: So the person who has an objection to this variance could step forward and give your name for the record.

MS. FALCO: My name is Ludmilla Falco and I am adjacent to the proposed garage.

CHAIRPERSON KONYK: Okay. And your objection is?

MS. FALCO: May I pass this*.

CHAIRPERSON KONYK: Motion to accept?

MS. CARDONE: So moved.

CHAIRPERSON KONYK: By Ms. Cardone.

MR. SADOFF: Second.

CHAIRPERSON KONYK: Second by Mr. Sadoff.

All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: You don't have to -- just hand them to us. We'll pass them out.

Can you hand them to us? Thanks.

MS. FALCO: The original architect of Jupiter Farms planned a community of single family homes on 1-acre lots. The attraction of living in the woods surrounded by nature was the reason I decided to live in Jupiter Farms.

This area welcomes horseback riding with its dirt roads and quiet tree-filled environment.

Residents enjoy the fast appreciation of their homes' value due to their rustic living style. Persons who want to change Jupiter Farms into multi-family residences or to construct warehouses or multiple car garages or workshops should seek other places to live.

The residents of the Jupiter Farms would like to preserve the beauty of this area for future generations and not allow noise factories to be constructed to shatter the peace.

CHAIRPERSON KONYK: Okay. So your objection to the variance is?

MS. FALCO: It will detract from my property value and surrounding neighbors' values.

It will be noisy and it will be unsightly.

CHAIRPERSON KONYK: What are they planning on doing in this garage that's going to be noisy?

MS. FALCO: Well, I'm going to guess the house is only 1,500 square feet. It already has a two-car garage. So it's going to be a five-car garage?

That means a lot more cars, a lot more noise, a lot more 3-wheelers, a lot more people there.

CHAIRPERSON KONYK: Do you know that we have seven criteria that have to be addressed in order to get a variance approved. If the item is meeting the seven criteria, then it's going to be approved as the variance will be approved. The

staff has done their report and the applicant has done their report to show that this item does meet the seven criteria.

In order for you to object to this variance, you would have to take one of those seven criteria and convince us that it does not meet that criteria so that we can only stick to the seven criteria. We can't go on what you think might happen, or what you think might not happen or property values or whatever, anything.

The seven criteria are clearly marked in the applicant's record and if there's something in the seven criteria that you find they do not meet, then that's an issue that we can look at.

MS. FALCO: We weren't even aware of this. My neighbors, none of them got a phone call. We just recently heard about it. There was no sign on 122nd Street.

I am running to this because I --

CHAIRPERSON KONYK: Okay. Let me just go over the seven criteria with you. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings.

And the staff and the applicant have both demonstrated that they meet that item in the seven criteria.

MS. FALCO: Could you repeat that one more time?

CHAIRPERSON KONYK: Special conditions and circumstances exist that are peculiar to the parcel of land that are not applicable to other parcels of land in the same zoning district.

And the reason for their justification is most residential projects in the surrounding area were developed under the previous Code.

Is this the wrong one? Yeah, this is the wrong one.

MR. SEAMAN: Page 34.

CHAIRPERSON KONYK: Page 34. Due to the angle that the applicant's house was built and the 30-foot right-of-way easements taken along the north and east property lines, the lot has restrictions that the surrounding lots do not share. That's what one of their justifications is.

Can you dispute that?

MS. FALCO: I just have a hard time seeing a five-car garage.

CHAIRPERSON KONYK: I didn't ask that question. What I said is special conditions and circumstances exist that are -- there are seven of these; we're going to go over all seven -- are peculiar to the parcel of land that are not applicable to other parcels.

They have as their justification, which has been reviewed by staff, due to the angle the applicant's house was built and the 30-foot right-of-way easements taken along the north and east property lines, the lot has restrictions that the surrounding lots do not share.

Can you show that this lot does not have these restrictions?

MS. FALCO: May I ask you a question?

CHAIRPERSON KONYK: Sure.

MS. FALCO: I just became aware of this hearing. If I had had time, I would have been able to have gone over to review, to do some homework. How come I didn't have the time to do this?

CHAIRPERSON KONYK: It's noticed for how many days prior to the hearing?

MR. SEAMAN: The yellow board is to be up for 15 days prior?

MS. FALCO: Should it be on the street, on the person's street where he lives, his address?

MR. SEAMAN: You need to talk to the agent or the owner. They were required to put the sign out there.

MS. FALCO: That's the question. I have a picture of the front and the side and there is no sign. I have a picture of it that I took yesterday and I just came in here the other day.

MR. SEAMAN: We can also check and see if she was on the address for the letters.

MS. JAMES: She did come in on Monday, I believe, and stated there was no sign up there for the month of December.

CHAIRPERSON KONYK: It's got to be 15 days; correct?

MR. SEAMAN: Fifteen days prior to the hearing.

CHAIRPERSON KONYK: So it would have been December 1st through the 15th.

MS. FALCO: I come home every day. I leave --

CHAIRPERSON KONYK: Was there a sign?

MR. BURCH: Yes.

CHAIRPERSON KONYK: Where was the sign? Could you come forward?

MR. BURCH: I have a corner lot, it was on 179th.

MS. FALCO: Where on 179th?

MR. BURCH: The photograph will show it. I also have a photograph, I don't have them with me but I took a picture of it.

MS. FALCO: Okay. My house is right here to the left of the mailbox. This is the front of the house, his house, Mr. Burch's, and 179th. This is it right here. This is the front and this is 179th (indicating). There's quite a bit of land there.

CHAIRPERSON KONYK: Well, that's why I'm going over the seven criteria with you. Normally, we don't go over the seven criteria with somebody that's objecting, but I'm giving you an opportunity to listen to what the seven criteria are and, you know, possibly there will be one that you can justify that it's not been met.

If he doesn't meet one, then he doesn't get the variance. He has to meet all seven, okay.

The first one is kind of like a technical issue, so I wouldn't expect you to have

information on that one.

Second one. Special circumstances and conditions do not result from the actions of the applicant.

The building records for the house shows the house at a different angle than what was actually built. The house was built by a previous property owner at an angle which limits additions due to current building setbacks. Therefore, special circumstances and conditions do not result from the actions of the applicant.

Do you understand that?

MS. FALCO: Not really.

CHAIRPERSON KONYK: What they're saying is that before this guy bought the property, the house was built at a certain angle that affects his ability to add this garage --

MS. FALCO: But there is already a garage, though. I believe it's a two-car garage.

CHAIRPERSON KONYK: Well, there's nothing in the Code that says he can only have a two-car garage. I mean, he --

MR. SEAMAN: It's our understanding he's closing that in as part of his residence.

CHAIRPERSON KONYK: The two car garage is being abandoned as a --

MR. SEAMAN: Enclosed.

CHAIRPERSON KONYK: -- garage and becoming living space.

MR. SEAMAN: Part of the house.

MR. BURCH: Yes.

CHAIRPERSON KONYK: Okay. So he's going to have a three-car garage?

MR. SEAMAN: Correct.

CHAIRPERSON KONYK: Okay. You're seeing him as having a five-car garage. What he's saying is that the existing two-car garage is going to become part of his home. Then he'll have a three-car garage.

So he's not -- was that your concern that he was going to have --

MS. FALCO: The doors are facing my property right now. The doors are facing my property.

CHAIRPERSON KONYK: So?

MS. FALCO: Of the three-car garage. That's where they will be faced.

CHAIRPERSON KONYK: Okay. But nothing in the Code says that garage doors can't face your property. He's encroaching on the setback is what he's doing. He's not asking to relocate the garage doors or anything like that. The only thing he's asking for is --

MR. SEAMAN: Madam Chair, could we look at page 32 and have her tell us which piece of property she lives on in relationship to this?

CHAIRPERSON KONYK: Sure. There's an aerial on page -- do you have it?

MR. SEAMAN: Hand that to her, Juanita, so she can -- show us which --

MS. FALCO: I'm the one that's right here (indicating).

MS. JAMES: She's in the middle.

MR. SEAMAN: Okay.

CHAIRPERSON KONYK: Okay. All right.

MR. SEAMAN: And the reason why I brought that up, of course, landscaping, buffering is a possibility.

CHAIRPERSON KONYK: I think we're very circular here. I don't know where we're going to go with this. I mean, as far as the objection goes.

Unless you as the objector can show us that he does not meet one of the seven criteria, it's been recommended for approval by staff.

MS. FALCO: But wouldn't I have a right to do some more homework? And that sign is -- certainly should be --

CHAIRPERSON KONYK: We don't have -- give her the sign thing, the thing about the sign. Tell her what you told me this morning about the sign.

MR. SEAMAN: Well, the yellow signs that we have are required to be posted 15 days prior to the hearing and 25 feet minimally from the property line. So you didn't see a sign at all; that's what you're saying?

MS. FALCO: I did not see a sign.

CHAIRPERSON KONYK: How did you find out about the hearing?

MS. FALCO: I got a letter, a card and I went running to the Post Office on Saturday, and then I got the certified letter and I had talked to six or seven of my neighbors who just didn't really know what it was. They thought it had something to do with hurricanes, some of them ignored it, they didn't know what it was. And from what I understand, they should have all been called.

CHAIRPERSON KONYK: No.

MR. SEAMAN: No.

CHAIRPERSON KONYK: No. The letters go out as a courtesy. The only thing that's required is the sign is up in 15 days and it's only really got to be there for one day; right?

MS. HELFANT: Yes.

MS. FALCO: But the sign only has to be there for one day?

CHAIRPERSON KONYK: Mm-hmm, as long as it has been there for one day.

MR. SEAMAN: One day. It's required to be there for 15, but if it's been shown it's there for one day that does not preclude the Board from acting on the applicant's request.

CHAIRPERSON KONYK: Right.

MS. FALCO: Because none of my neighbors on 122nd are aware of this.

CHAIRPERSON KONYK: Are they here?

MS. FALCO: They're --

CHAIRPERSON KONYK: You can't speak on their behalf. You can only speak on your own behalf.

So I'm going to read these real quickly and then if you find one that you think you can

dispute.

Okay. Granting the variance shall not confer upon the applicant any special privilege denied by the Comprehensive Plan in this Code to other parcels of land, buildings or structures in this same zoning district.

MS. FALCO: Can you repeat that again?

CHAIRPERSON KONYK: Yeah. Granting a variance shall not confer upon the applicant any special privilege denied by the Comprehensive Plan in this Code to other parcels of land.

In other words, we're saying that -- well, let's see their justification. The proposed garage addition is a reasonable use of the property. The chosen location is the most logical due to the angle of the house, an existing pool and the current floor plan. Therefore, granting the variance shall not confer upon the applicant any special privilege denied by the Comprehensive Plan.

Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels.

Complying to current building setbacks, the applicant would not be able to construct a reasonable addition. The angle of the house -- I think this whole thing hinges on the angle that this house was originally built on.

If it had been built at the same angle that possibly your house was built on, he wouldn't have this issue. But because this house was built at a less than optimal angle, it's put him in a position of not being able to accomplish this.

MS. FALCO: How high is the garage going to be?

CHAIRPERSON KONYK: You'll have to ask the applicant that.

MS. FALCO: So they can make it as high as they want to?

CHAIRPERSON KONYK: No. How high will the garage be?

VICE CHAIRMAN BASEHART: Is it a one-story garage?

MR. BURCH: Two-story.

VICE CHAIRMAN BASEHART: Two-story.

MS. FALCO: Oh, so there's going to be families living there.

CHAIRPERSON KONYK: What's the second story of the garage for?

MR. BURCH: Storage.

MS. FALCO: No. Your daughter told me she's moving, she's going to live there.

MR. BURCH: Storage.

CHAIRPERSON KONYK: What?

MR. SEAMAN: It was not brought to staff's attention it was a two-story garage. You told us it was a one-story.

MR. BURCH: No, two-story. I have the plans right here.

MR. SEAMAN: Did you ever submit those to us?

MR. BURCH: I showed them to Oscar.
MR. GAMEZ: I don't remember seeing the plans.
MR. SEAMAN: He's still allowed to build no more than 35 feet high.
MS. FALCO: How high?
MR. SEAMAN: Thirty-five feet.
MS. FALCO: Is that so he can put his live-in trailer in there?
MR. SEAMAN: By Code, the maximum height for a building cannot exceed 35 feet or you have to accommodate additional setbacks.
CHAIRPERSON KONYK: Is that exceeding 35 feet?
MR. BURCH: No, ma'am.
CHAIRPERSON KONYK: What is the plan showing the second story of the garage?
MR. BURCH: It's going to be 8 foot high. The walls are going to be 8 foot.
CHAIRPERSON KONYK: And what's in there? Is there a bathroom in there?
MR. BURCH: Nope.
CHAIRPERSON KONYK: Kitchen?
MR. BURCH: Nope.
CHAIRPERSON KONYK: Any plumbing at all in any of the garage?
MR. BURCH: No.
MR. SEAMAN: What's he putting in it?
MS. FALCO: If the garage doors face to the north, a variance would not be needed.
CHAIRPERSON KONYK: If the garage doors face to the north a variance would not be needed?
MS. FALCO: Yes.
VICE CHAIRMAN BASEHART: That's not true.
CHAIRPERSON KONYK: That's not true.
VICE CHAIRMAN BASEHART: It doesn't matter which way the garage doors face; it's the building itself that has to adhere to setbacks.
CHAIRPERSON KONYK: Okay, if your husband -- is that your husband?
MR. FALCO: The garage doors as they face now in the plans face our property, so when the garage doors are open for repairs or working on his motor home, it's going to be our noise problem, not his.
If the garage doors open to the north, he could do whatever he wants and I don't believe it would need a variance.
CHAIRPERSON KONYK: Well, it's the setback, not where the garage doors are.
MR. FALCO: Okay, but the setback means it's close to us, plus we're going to have garage doors facing us and it's just wide open garage doors that we have to look at for the next 20 years.
CHAIRPERSON KONYK: How long are they going to be open?
MR. FALCO: Oh, we have a photograph of what is existing now.
CHAIRPERSON KONYK: Not that that has anything to do with the variance, I just --
MR. FALCO: Well, if you visit Jupiter

Farms there are some people that enjoy --

CHAIRPERSON KONYK: Okay, but that's not allowed.

MR. FALCO: It's there.

MS. FALCO: Well, it's there.

CHAIRPERSON KONYK: Do you have any objection to any of the seven criteria? I mean, do you have anything that shows that he's not meeting the seven criteria?

That's really what you need to tell me. If not, we need to move forward.

MR. FALCO: Okay, we don't have the seven criteria.

CHAIRPERSON KONYK: Well, I'm reading them to you and you keep going off on which way the garage doors are facing, which has nothing to do with the variance.

Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district.

Complying to current building setbacks, the applicant would not be able to construct a reasonable addition. The angle the house was built severely restricts the buildable area. Therefore, literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed.

Grant of the variance is the minimum variance that will make possible the reasonable use.

Yes, the addition is the minimum variance required to build a garage addition to be able to store all the applicant's vehicles and other belongings that's now currently stored in two sheds. Therefore, grant of the variance is the minimum variance.

Are you going to get rid of those sheds?

MR. BURCH: Yes.

CHAIRPERSON KONYK: Granting the variance will be consistent with the purposes, goals, objectives and policies of the Comprehensive Plan.

The variance will allow the applicant to increase the value of their house and in turn the value of the neighborhood.

VICE CHAIRMAN BASEHART: I'd like to point something out that the objector's not aware of, the variance that's being requested here is not a variance that enables this garage to be built closer than it otherwise would to your property. The variance is from the setback on 122nd; right?

MR. GAMEZ: Yes, it is.

VICE CHAIRMAN BASEHART: If you look at the site plan that was submitted, you're right here (indicating). The variance is from the setback from this road.

MR. FALCO: Okay. We are aware of that, but the garage doors, if they opened up to the south, the driveway would come very close to our property and we would be witnessing multiple cars

transiting this garage. If they open to the north, which is very easy, the cars come in presently from the north --

CHAIRPERSON KONYK: So really what you want your neighbor to do is put his garage doors on a different side of the building; is that it?

MR. FALCO: That would appease quite a bit of --

CHAIRPERSON KONYK: But what about the guy on that side?

MR. FALCO: It's open to the street and it opens to his house.

CHAIRPERSON KONYK: Okay. That's an issue between you and your neighbor. That's really not an issue for this Board, unfortunately. I mean, have you tried to talk to your neighbor?

MS. FALCO: Yes, we have and I don't want to talk to him right now. We tried very nicely.

MR. SEAMAN: Can we suggest buffering?

CHAIRPERSON KONYK: How about if you buffered it?

MR. BURCH: There's already trees and it's already been discussed. It's got as much trees as we can handle with the hurricanes destroying it every time it passes through.

MR. SEAMAN: A fence?

CHAIRPERSON KONYK: How about a fence? You don't want to see the inside of his garage?

MR. FALCO: Well, you know, we have house values. If somebody wants to buy your house and they look next door and see a garage, three garage doors, we --

CHAIRPERSON KONYK: Was he living there before you or after?

MS. FALCO: No, I've owned the property 13 years. His father, I believe, either gave it to him or he bought it from his father. So they were there before.

CHAIRPERSON KONYK: The house was there before you, so you bought it?

MS. FALCO: Well, no, I went in there 13 years ago. I bought property. Then I built on it.

CHAIRPERSON KONYK: Do you have anything that addresses the seven criteria, an objection, and you don't want buffering?

MR. FALCO: We would like more time to study this if this could be postponed to the next meeting, we would like to have this put to the next meeting so we could review these seven criteria.

CHAIRPERSON KONYK: I mean, the applicant, I would ask the applicant if he would agree to a postponement.

MS. FALCO: Your Honor, with the holidays it was just hard to get everybody together. I know some people are opposed to this.

CHAIRPERSON KONYK: Sometimes it's better to resolve these issues before you go forward.

MR. JACOBS: Madam Chair.

CHAIRPERSON KONYK: Sure.

MR. JACOBS: I have a question as to whether the seventh criteria has been met.

I also think there's a factual question as to whether notice was given to the objecting party. Her testimony as I understand it is that there was no sign up during the month of December, and if that's the case and if there is a question on the seventh criteria, I think she ought to have an opportunity to get together with her neighbors and see whether this is in fact injurious to the neighborhood.

MR. FALCO: I agree and we object --

CHAIRPERSON KONYK: Let's hear from the County Attorney.

MS. HELFANT: If we can speak with the applicant, if he has any proof that shows that he posted the notice as required?

MR. BURCH: I posted the notice as I was required to. It's sitting right on 179th, right on the -- facing the street. I'm on a corner lot. It's been there.

MR. JACOBS: When was that posted?

CHAIRPERSON KONYK: This was for the November meeting.

MR. BURCH: It was posted in November and then I was given a phone call that we were --

CHAIRPERSON KONYK: Continuing it.

MR. BURCH: And it's been up there ever since. Her objection is it's not on 122nd, but it is right there in plain view on 179th.

VICE CHAIRMAN BASEHART: Aren't you supposed to post your property for these variances on all street frontages? How many signs did you give him?

MR. SEAMAN: You're supposed to have one sign for each 100 feet on two rights-of-way. If there are two rights-of-way, they should have two signs.

VICE CHAIRMAN BASEHART: How many signs did you post? One?

MR. BURCH: One sign.

VICE CHAIRMAN BASEHART: How many signs were supposed to be posted? It looks like about five.

CHAIRPERSON KONYK: Why is that?

VICE CHAIRMAN BASEHART: Because you have to post one sign for every hundred feet of frontage on every road you front on.

MR. SEAMAN: That's correct.

VICE CHAIRMAN BASEHART: So he didn't meet the posting requirements.

MR. SEAMAN: That's correct.

VICE CHAIRMAN BASEHART: I'm going to make a motion that we postpone this item for 30 days, that the property be posted as required, because I think that there's a notice problem here.

MS. HELFANT: Yeah.

MR. SADOFF: I second that motion.

CHAIRPERSON KONYK: We have a motion by Mr. Basehart to postpone this item for 30 days and we have a second by Mr. Sadoff because the applicant has not demonstrated he even had enough signs to post this properly.

So any discussion?

(No response.)

CHAIRPERSON KONYK: All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Motion carries
unanimously. January 19th.

MR. BURCH: Thank you.

CHAIRPERSON KONYK: You're welcome. Make
sure he gets the signs before he leaves.

VICE CHAIRMAN BASEHART: How many signs
was he given; do you know?

CHAIRPERSON KONYK: Who's the planner
that's working with him?

MR. GAMEZ: I was. He was only given one
sign.

CHAIRPERSON KONYK: Okay. Would you make
sure he gets whatever he needs?

MR. SEAMAN: We're sorry this happened.

CHAIRPERSON KONYK: Okay. Don't worry
about that. It was a mistake. I mean, we had a
hurricane and all kinds of stuff, so one month
isn't going to make that much of a difference.

MR. BURCH: I've been waiting to do my
additions because my roof blew off from the
hurricanes last year. I've been waiting to put
the roof back on because if I put it back on and
do all the additions, then I have to tear
everything off.

CHAIRPERSON KONYK: I understand.
Unfortunately, we don't have a choice because of
the notice problem. When there's a notice
problem, it goes beyond anything that we -- I
mean, we can't circumvent a notice problem.

So just make sure that you know how many
signs you need and make sure you get all the signs
you need and make sure they're posted and please
come with photographs next time of the signs
posted so we know that they're in the right spot
and there's no issue about that.

And, you know, you have every opportunity
as the objector to come in and talk to the staff.

They'll help you understand the seven criteria
and see if you can't come up with something that
will comply, you know, with that. Because other
than that, we can't talk about it. And think about
buffering. I mean, that would certainly help
solve your problem.

MR. BURCH: If you look out toward their
property, it's all wooded. You can't even see
their house from my house.

MR. FALCO: Before the hurricane it was,
but not now.

VICE CHAIRMAN BASEHART: It might be good
and you know, I'm sorry that this had to be
postponed, but you know, if we had taken action on
this and the action was challenged and you were
approved, the approval could have been overturned,
you'd have to come back and do it again and it
would cost you even more time than this delay is.

But I think, you know, the issue appears
to be, you know, the exposure of the garage to the
next door neighbor's property. Take some pictures
to bring and document that there won't be a visual

issue and maybe consider moving the garage doors to the other side.

Just take a look at the issues and I would suggest that you all try to talk to each other and maybe work something out before the hearing.

CHAIRPERSON KONYK: You are neighbors.

MR. BURCH: Yeah, I don't know this gentleman. I don't know that he lives there.

MR. FALCO: I work during the night and I'm there during the day. So I see quite a few people going on his property that don't belong to his family if we can get proof of that.

CHAIRPERSON KONYK: So what does that have to do with anything?

MR. FALCO: There are people living in that trailer that --

CHAIRPERSON KONYK: Okay. Have a nice day.

MR. BURCH: Thank you. I need how many? Four signs?

CHAIRPERSON KONYK: You need five. Do you still have the one? It's got the wrong date on it. He needs five. Give him six. Make sure he has them all. I'm serious.

MR. SEAMAN: And 25 feet from the property line.

CHAIRPERSON KONYK: What?

MR. SEAMAN: And it should be 25 feet from the property line.

VICE CHAIRMAN BASEHART: Within 25 feet.

MR. BURCH: Within 25 feet, right? I could put them right on the fence.

MR. SEAMAN: No further than 25 feet away.

CHAIRPERSON KONYK: And every 100 feet. I'd measure it and document it and photograph it and make sure you have those pictures here.

MR. BURCH: Thank you.

CHAIRPERSON KONYK: Okay. We're going to move on to the December Agenda. The first item is BA2005-01573, Frogner Consulting.

I'm going to have staff read the legal and then there's opposition on this one. I want to hear from the opposition before we hear from the applicant this time.

MR. SANFORD: Frogner Consulting, for Roz Belford, owner, to allow a proposed solid roof porch addition to encroach into the required rear setback.

Location, 8401 Marsala Way, approximately 620 feet east of Lyons Road and approximately .25

miles south of Venetian Isles Boulevard within the Melrose PUD in the PUD Zoning District.

CHAIRPERSON KONYK: Okay. The gentleman that's objecting to this variance. Is he awake? Can you just tell us what your objection is to this variance, which is also page 34.

Your name for the record, sir?

MR. DUTRA: My name is Rogerio Dutra.

CHAIRPERSON KONYK: Okay. And the applicant is looking for a variance of 11.84 foot on the rear setback. Can we hear your objection to that?

MR. DUTRA: My objection is this building they're trying to make there, whatever they call it, is blocking my view from my windows and also my privacy. Then I'm against to building that.

This is the small designs I make it, I'm not too much good on it, but it's easy to understand. This is the picture he's trying to put on it, a building they're trying to put on it.

They're blocking my view and I'm against this, the view, and also my privacy.

CHAIRPERSON KONYK: So they're seeking a variance to allow a solid roof screen enclosure to encroach into the required setback.

MR. DUTRA: I paid \$3,000 to have a nice view and now if they put that building there, they obstruct my view. It will cost me --

CHAIRPERSON KONYK: It's a screen enclosure; it's not a building.

MR. DUTRA: She was telling me it's a glass-like building. A sunroof, it's not a screen.

CHAIRPERSON KONYK: Oh, glass? Okay.

MR. DUTRA: This is like an extra room.

MR. FROGNER: This is the existing. Every residence has a screen room that goes out 16 feet. The proposed sun room would go out 13 feet, so less than all the existing screen rooms all the way down the line.

CHAIRPERSON KONYK: Okay. So she's looking to add a little sun room right here?

MR. FROGNER: That's correct. Less than the existing screen rooms all the way down the lakeside. Every one of these have a big screen room.

VICE CHAIRMAN BASEHART: What we're talking about is right there (indicating).

MR. DUTRA: This addition here in my picture there, that's her patio and that's where she's trying to make a --

CHAIRPERSON KONYK: Where's your house?

MR. FROGNER: These are screen rooms. These are existing screen rooms.

CHAIRPERSON KONYK: Correct.

MR. DUTRA: No, this is not existing anymore. It's not existing any more.

MR. FROGNER: There's a minimum distance here. There's no landscaping in here. There's no lake view. I mean, it's a tunnel that backs out, so.

MR. DUTRA: This is my patio that they

already blew to the hurricane. And this is hers down to the hurricane. There is no screen patio, either one.

She's trying to make -- I don't know what she's trying to do in that area because that one is blow away. But now she's trying to do this one and probably this one also. So she already have it here at the waterfront area and making noise on my home. Now she's trying to add this here and even worse. So I don't need this. Already she's got a waterfront making noise all day long, now she's trying to make this.

CHAIRPERSON KONYK: This will be an enclosed room. You won't hear anything.

MR. DUTRA: They're blocking my view here from my windows and also the screen room here (indicating).

CHAIRPERSON KONYK: Okay. Thank you. Public portion of the hearing is closed.

MR. DUTRA: That's what she's showing to me and she's going to build this.

MR. FROGNER: That's not anywhere near the proposed construction.

CHAIRPERSON KONYK: Okay. Thank you. Have a seat. Thank you.

Any Board member have a question of the applicant?

VICE CHAIRMAN BASEHART: Mr. Frogner, could you respond to the objection?

MR. FROGNER: I can. First of all, the picture of the sun room looks like something in western Montana. It's nowhere near close to a contemporary aluminum and glass room my client's proposing.

The second point I'd like to make is on that drawing where he shows obstruction of his lake view, crossing my client's proposed sunroom from between the houses, that's not a view.

CHAIRPERSON KONYK: From a side window.

MR. FROGNER: That's not the neighbor's view. Everybody's got their lake view. The lake is over 40 feet from the rear property line.

My client deserves her lake view just as other neighbors do.

CHAIRPERSON KONYK: Right.

MR. FROGNER: So my client also has some landscaping on the existing screen room that will be removed and placed outside on the eastern elevation of the --

MR. DUTRA: She's not --

CHAIRPERSON KONYK: Can you just -- please?

MR. FROGNER: -- of the sunroom and I met with the applicant. I met with the neighbor two weeks ago. Staff called me and asked me if I could get a letter of support from the neighbor and I would be placed on the Consent Agenda, so I called this gentleman and I met with him at his house.

We reviewed the plans, we reviewed the survey, we reviewed where the room was going to go. I explained it was a glass roof, a glass

room, and he signed the letter.

I submitted it to staff and then last night I received a phone call from -- I'm not sure if it was staff or somebody else saying that he did object and so here we are this morning.

CHAIRPERSON KONYK: Okay. Let's have a discussion.

First of all, you're complaining that you're going to lose your lake view through her property out of your side window?

MR. DUTRA: Privacy, also. I don't know who --

CHAIRPERSON KONYK: Okay. Does everybody understand that? It's his view out of his side window through her property. She is not going to be obstructing his view from his own property directly on the lake, okay.

We understand the screen enclosure blew off in the hurricane, but that has nothing to do with this issue, either. So everybody understands all that.

Is anyone prepared or does anyone have any other questions?

MS. HELFANT: Excuse me, Madam Chair, is there a motion?

CHAIRPERSON KONYK: Motion to accept the drawings by the neighbor?

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: Motion carries unanimously. Does anybody have any more questions?

(No response.)

CHAIRPERSON KONYK: Prepared to make a motion?

VICE CHAIRMAN BASEHART: Madam Chair, I make a motion that BA2005-01573 -- is that the right item? Yeah. Be approved based on I think this applicant has demonstrated compliance with the seven criteria and based on the staff analysis and review and the staff recommendations with the conditions. You agree with the conditions recommended?

MR. FROGNER: Yes, I do. I further would agree to a condition to satisfy the neighbor. We would put a -- we have a couple of feet on the east elevation between the sunroom and the drainage easement.

We would put an acceptable hedge in if that will help you out. Otherwise, we'll go with the existing landscaping that we have in place.

CHAIRPERSON KONYK: Do you want a hedge?

MR. DUTRA: No, because if she puts free standing palm trees like she has now, that will be even worse. That's going to block my view even worse.

CHAIRPERSON KONYK: Okay. But you don't

have any right to a view through her property. Do you understand that?

MR. DUTRA: Okay.

CHAIRPERSON KONYK: You only have a right to a view behind your property. You don't have a right to a view through her property.

MR. DUTRA: I'm saying if she put that room there they're going to block my view --

CHAIRPERSON KONYK: I understand you're saying that, but you're saying your view is being blocked through her property. You don't have that right to that view, okay? All right.

So we're going to leave the conditions as they are; correct?

MR. FROGNER: Thank you.

CHAIRPERSON KONYK: Motion is made by Mr. Basehart, second?

MS. CARDONE: Second.

CHAIRPERSON KONYK: By Nancy Cardone. All those in favor?

BOARD: Aye.

CHAIRPERSON KONYK: Any discussion?

(No response.)

CHAIRPERSON KONYK: Seeing none, carries unanimously.

Thank you.

MR. FROGNER: Thank you very much, ladies and gentlemen.

BOARD OF ADJUSTMENT CONDITIONS

1. By **12/15/2006**, 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 (**12/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Meeting is adjourned.

(Whereupon, the meeting was adjourned at 11:05 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 5 through 67,
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 9th day of January, 2006.

Sophie M. (Bunny) Springer