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PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, March 17, 2005
9:00 a.m.
100 South Australian Avenue
West Palm Beach, Florida

Reporting:

Edward Flaxman
Court Reporter
York Stenographic Services, Inc.

ATTENDEES

Chelle Konyk, Chairperson

Robert Basehart, Vice Chairman

Nancy Cardone

Joseph J. Jacobs

Stanley Misroch

William Sadoff

Bart Cunningham

Annie Helfant, Assistant County Attorney

Alan Seaman, Senior Site Planner

David Cuffe, Civil Engineer II, Land Development

Miradieu Aubourg, Planner II

Oscar Gamez, Planner I

Juanita James, Zoning Technician

Annette Stabilito, Secretary

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P R O C E E D I N G S

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4 CHAIRPERSON KONYK: I'd like to call to order
5 the March 17, 2005 Board of Adjustment meeting. And we
6 will start with the roll call and the declaration of
7 quorum.

8 MS. STABILITO: Mr. William Sadoff.

9 MR. SADOFF: Here.

10 MS. STABILITO: Mr. Raymond Puzzitiello.

11 (No response)

12 MS. STABILITO: Mr. Bart Cunningham.

13 MR. CUNNINGHAM: Here.

14 MS. STABILITO: Chairperson, Ms. Chelle Konyk.

15 CHAIRPERSON KONYK: Here.

16 MS. STABILITO: Vice-Chairman, Mr. Robert
17 Basehart.

18 (No response)

19 MS. STABILITO: Ms. Nancy Cardone.

20 MS. CARDONE: Here.

21 MS. STABILITO: Mr. Joseph Jacobs.

22 MR. JACOBS: Here.

23 MS. STABILITO: Mr. Stanley Misroch.

24 MR. MISROCH: Here.

25 MS. STABILITO: Mr. Donald Mathis.

26 (No response)

27 CHAIRPERSON KONYK: The next item on the agenda
28 is the opening prayer and Pledge of Allegiance. And
29 Board member Ms. Cardone will lead us in prayer.

30 (Whereupon, the opening prayer was given by Ms.
31 Cardone, followed by recitation of the Pledge of
32 Allegiance.)

33 CHAIRPERSON KONYK: I have before me proof of
34 publication in the February 27, 2005 Palm Beach Post.
35 Remarks of the Chair. For those of you who are not
36 familiar with how this Board conducts its business, the
37 agenda is divided into two parts, the consent and the
38 regular agenda. Items on the consent agenda are items
39 that have been recommended for approval by staff, the
40 applicant agrees with any conditions the staff may have
41 recommended, there's no opposition from the public, and
42 no Board member feels the item warrants a full hearing.

43 If there is opposition from the public or a
44 Board member feels that the item warrants a full hearing,
45 that item will be pulled from the consent agenda and
46 reordered to the first item on the regular agenda. Once
47 the consent agenda is voted on -- Annette, will they
48 receive their letters today?

49 MS. STABILITO: Tomorrow.

50 CHAIRPERSON KONYK: Tomorrow. You're free to
51 leave once the agenda is voted on, and your letters will
52 be forthcoming. Let the record reflect that Mr. Basehart
53 has arrived. Items on the regular agenda are items that
54 have opposition or the applicant doesn't agree with the
55 conditions or a Board member feels the item warrants a
56 full hearing. Items on the regular agenda will be
57 introduced by staff. The applicant will give their
58 presentation. The staff will then give their
59 presentation. At this time, we'll open the hearing to
60 the public, and after the public portion of the hearing
61 is closed the Board members can vote on the item.

62 The next item on the agenda is the approval of

1 the minutes. Everybody did receive a copy of the minutes
2 this month. Does anybody have any corrections or
3 additions?

4 (No response)

5 CHAIRPERSON KONYK: Seeing none, could I have
6 motion for approval?

7 MR. MISROCH: So moved.

8 CHAIRPERSON KONYK: Motion by Mr. Misroch.

9 MR. JACOBS: Second.

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

12 BOARD MEMBERS: Aye.

13 CHAIRPERSON KONYK: Opposed?

14 (No response)

15 CHAIRPERSON KONYK: Motion carries unanimously.
16 Any remarks from the Zoning Director?

17 MR. SEAMAN: Yes. Staff wants to congratulate
18 Mr. William Sadoff. He's been reappointed for another
19 three years until 3/15/2008. And the Chairperson
20 informed me that she'd like to postpone the workshop
21 until May 19.

22 CHAIRPERSON KONYK: I didn't make that up on my
23 own. It was because they told me we weren't going to
24 have -- we were only going to have four Board members and
25 then all of a sudden everybody is here. But two of our
26 Board members do have to leave so it's probably better.
27 May, are we going to do it in May? Yeah, because I
28 probably won't be here in April. All right. Anything
29 else?

30 MR. SEAMAN: That's all for the remarks.

31 CHAIRPERSON KONYK: Okay. Any corrections or
32 additions or changes to the agenda?

33 MR. SEAMAN: There are some changes, and I'll
34 give them as we go through. However, there's one thing
35 that we need to bring up. There was a clerical error.
36 We let the Board know during the June 17, 2004 hearing a
37 clerical error was made to variance petition number 2004-
38 0028. Staff and the applicant incorrectly reviewed the
39 survey and requested the setback be reduced from 80 feet
40 to 30 feet measured from the property line. However,
41 based on the survey the correct measurement should have
42 been 15 feet from the access easement line.

43 This correction does not affect the site plan
44 in any way or make any substantive changes to the
45 property. The correction is needed to proceed with the
46 development process. So I think what staff is requesting
47 is that you take a vote on it.

48 CHAIRPERSON KONYK: Is it on here? Is that
49 item...

50 MR. SEAMAN: That's what we're adding right now
51 so when you get to that one you need to...

52 VICE CHAIRMAN BASEHART: What was the petition
53 number?

54 MR. SEAMAN: It was 2004-00281.

55 VICE CHAIRMAN BASEHART: Basically what you're
56 saying is that the indication in the record was a setback
57 from a property line, but in reality it was setback from
58 an easement, an access easement.

59 MR. SEAMAN: It was from the property line and
60 in reality it should have been taken from the edge of the
61 ultimate right-of-way.

62 VICE CHAIRMAN BASEHART: Okay. But the

1 ultimate right-of-way is within that area so basically it
2 boils down to the same thing?
3 MR. SEAMAN: Nothing changes physically.
4 VICE CHAIRMAN BASEHART: Okay.
5 MR. SEAMAN: It was just we did our math wrong.
6 VICE CHAIRMAN BASEHART: So you just want to
7 clean up the record?
8 MR. SEAMAN: Clean up the record, yeah.
9 VICE CHAIRMAN BASEHART: I'll make a motion
10 that we, I guess, reapprove petition 2004-00281 to
11 reflect the setback from you said access easement?
12 MR. SEAMAN: It's actually the ultimate right-
13 of-way.
14 VICE CHAIRMAN BASEHART: Okay. For the
15 ultimate right-of-way line instead of from the property
16 line.
17 MR. SEAMAN: Which would be a variance that
18 you're granting of 60 feet rather than previously it was
19 50 feet.
20 VICE CHAIRMAN BASEHART: Resulting in a front
21 setback variance of 60 feet.
22 MR. SEAMAN: Right.
23 VICE CHAIRMAN BASEHART: So moved.
24 CHAIRPERSON KONYK: Wait a minute. We got to
25 get this resolved. We're checking something.
26 MR. SEAMAN: About 65 feet.
27 VICE CHAIRMAN BASEHART: 65 feet. Okay.
28 MR. SEAMAN: As opposed to 50.
29 VICE CHAIRMAN BASEHART: That's my motion.
30 MR. JACOBS: Second.
31 CHAIRPERSON KONYK: We have a motion by Mr.
32 Basehart.
33 MR. JACOBS: I second it.
34 CHAIRPERSON KONYK: Second by Mr. Jacobs. Any
35 discussion?
36 (No response)
37 CHAIRPERSON KONYK: Anybody here from the
38 public on this one?
39 (No response)
40 CHAIRPERSON KONYK: All those in favor.
41 BOARD MEMBERS: Aye.
42 CHAIRPERSON KONYK: Opposed?
43 (No response)
44 CHAIRPERSON KONYK: Motion carries unanimously.
45 I guess we're going to swear in everybody that's going to
46 speak on any items today. If you have any intention of
47 speaking on any item today, could you please stand to be
48 sworn in? If you aren't sworn in you won't be able to
49 speak.
50 (Whereupon, the speakers were sworn in by Mr.
51 Flaxman.)
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58 CHAIRPERSON KONYK: The first item on the
59 agenda is a withdrawn item, BA2004-00485, Colteur
60 Hearing, agent for William Coleman. Is this by right?
61 MR. SEAMAN: Well, they're asking it to be
62 withdrawn because they've annexed into...

1 CHAIRPERSON KONYK: Oh, it's a withdrawal. I'm
2 sorry. So that's withdrawn. Then we have BA2004-01125,
3 Popper & Associates, another withdrawal.

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10 CHAIRPERSON KONYK: The first item postponed is
11 BA2004-00788, Mark Rickards, agent, for Curtis & Jean
12 Lewis, to allow a reduction in the required aisle back-up
13 distance. Anybody here from the public to speak on this
14 item?

15 (No response)

16 CHAIRPERSON KONYK: Is the applicant present?
17 Could you come forward? Any letters? This is by right?

18 MR. SEAMAN: This is by vote. It's a second
19 time.

20 CHAIRPERSON KONYK: Okay, second time.

21 MR. SEAMAN: And the reason for it is they're
22 adding additional variances that we have to readvertise.

23 CHAIRPERSON KONYK: Okay. So they don't really
24 have a choice. Okay. So would any Board member want to
25 vote on this for a postponement? How many days?

26 MR. SEAMAN: 30.

27 CHAIRPERSON KONYK: 30-day postponement.

28 VICE CHAIRMAN BASEHART: So moved.

29 MR. MISROCH: Second.

30 CHAIRPERSON KONYK: Motion by Mr. Basehart.
31 Second by Mr. Misroch. All those in favor.

32 BOARD MEMBERS: Aye.

33 CHAIRPERSON KONYK: Postponed. Okay. So
34 you'll be at the April meeting.

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41 CHAIRPERSON KONYK: The next item for
42 postponement is BA2004-00993, Dror Tregar, agent, for
43 Anya Group, applicant, present. Is there anybody here
44 from the public to speak on this item, against it?

45 (No response)

46 CHAIRPERSON KONYK: Okay. Is this by right?

47 MR. SEAMAN: This is by vote.

48 CHAIRPERSON KONYK: Okay. Opposition. Do you
49 have any objection to this being postponed? I'm not sure
50 of the reason why it's being postponed.

51 MR. SEAMAN: The reasons why are there's some
52 confusion with an easement on the survey, whether or not
53 it really exists, and also there's a potential code
54 enforcement issue regarding a retaining wall that was
55 constructed off the property perhaps without permits.

56 CHAIRPERSON KONYK: So who's asking for the
57 postponement?

58 MS. SIEGEL: We are. I'm here -- Jodie Siegel
59 from Holland & Knight on behalf of the applicant, and we
60 are requesting the postponement.

61 CHAIRPERSON KONYK: How long a postponement?

62 MS. SIEGEL: We would request 30 days, please.

1 CHAIRPERSON KONYK: To get the issues resolved
2 with the survey and the code enforcement issues?

3 MR. SEAMAN: All issues, yeah.

4 CHAIRPERSON KONYK: Do you have any objection
5 to that?

6 MR. SLUGGETT: Yeah. Good morning. For the
7 record, Geoffrey Sluggett, representing Mr. and Mrs.
8 Conrad Mikulec. My clients are the adjacent property
9 owners to the north of the petitioner's property. This
10 is the second postponement that's being requested, and
11 actually my clients are seasonal residents here in Palm
12 Beach County. They are actually stuck in traffic on
13 I-95, and they're on their way here this morning. Their
14 concern is there's numerous issues with this project, and
15 I think the Board has heard that in the past.

16 Their concern is they're going to have to
17 continue to keep monitoring these issues every 30 days.
18 They have to pay me to keep attending, monitoring all the
19 issues. We would like to ask that at least the item be
20 heard today to give the Board an opportunity to find out
21 what the status of all these issues are as opposed to my
22 clients always having to come down here. And they're on
23 their way here, and they came down deliberately to hear
24 this item today, and then once again there's a
25 postponement. If there's just a 30-day postponement
26 we're going to be in the same situation we think again in
27 a month because of three separate setback issues,
28 encroachment with the sea wall. There's DP issues
29 involved now is my understanding.

30 So we don't think this is something that is
31 going to be resolved necessarily in 30 days. We would at
32 least like or request that the Board ask for a status
33 report as to some of these issues so we don't have to be
34 coming back here before the Board.

35 CHAIRPERSON KONYK: Is your client familiar --
36 have they spoken to the applicant?

37 MR. SLUGGETT: They have spoken and...

38 CHAIRPERSON KONYK: So they're pretty familiar
39 with what the applicant is asking for, in other words.

40 MR. SLUGGETT: We're very familiar with all...

41 CHAIRPERSON KONYK: So would your client like
42 an opportunity to speak today on the record?

43 MR. SLUGGETT: Well, actually I was going to
44 speak -- actually what we're requesting is we'd like to
45 have a status report from the petitioner as to what
46 progress they're making on these issues. Now the one
47 issue that's before you is just a variance for the front
48 setback issue, but I think what was brought to staff's
49 attention and the Board's attention not at the last
50 meeting, but 60 days ago was the other setback issues,
51 the encroachment with relocation of the sea wall.
52 Obviously, my client has an interest. They're not just a
53 neighbor with sour grapes or anything.

54 CHAIRPERSON KONYK: Right.

55 MR. SLUGGETT: There's a real concern because
56 this structure encroaches to the north into the setback
57 adjacent to my client's property. There's visual impact
58 issues. There's going to be a DOT driveway connection
59 permit issue we understand now potentially with safety
60 issues on U.S. 1, so it's a much more global issue than
61 what you have before you today. My client is just
62 concerned that they have to keep monitoring this and

1 there's postponements every 30 days. We think this is
2 going to take a long, long time to resolve so we'd like
3 to at least get a status report as to what the progress
4 is on some of these issues as of today.

5 VICE CHAIRMAN BASEHART: Madam Chair, I think
6 what I'd like to do is -- I understand your concern, and
7 if your clients come from out of town, out of state,
8 wherever, specifically for this hearing, I think they
9 should have an opportunity to be heard. We don't
10 necessarily need to vote today, but we ought to give the
11 property owners an opportunity to put their concerns on
12 the record. I would make a motion that we remove this
13 item from the consent agenda and place it...

14 CHAIRPERSON KONYK: It's not on the consent.
15 It's on the postpone.

16 VICE CHAIRMAN BASEHART: I'm sorry. Remove it
17 from the postponed agenda, put it last on the regular
18 agenda, and hopefully your clients will get here by then.

19 MR. SLUGGETT: They should be here within ten
20 minutes. I spoke to them.

21 CHAIRPERSON KONYK: So all we're going to ask
22 is that you give us the status for their benefit. It
23 doesn't have anything to do with the exact variance that
24 we're hearing. It doesn't really matter. We really want
25 to stick to what the variance is. All these other issues
26 don't concern us, and they're nothing that we can have
27 anything to do with. So anything about the variance that
28 you can bring them up to date on and anything that they'd
29 like to speak about concerning the variance will be
30 allowed then. We'll reorder this -- do you want to
31 reorder it...

32 VICE CHAIRMAN BASEHART: Last on the agenda.

33 CHAIRPERSON KONYK: Okay. Are you all right
34 with that? Okay. So now what do we do?

35 MR. SEAMAN: Can I add one more comment to
36 that?

37 CHAIRPERSON KONYK: Sure.

38 MR. SEAMAN: One of the things that we're also
39 concerned about is if there is a code enforcement issue
40 on this project and code enforcement has been notified,
41 and I don't know the results yet, if they are in
42 violation then that causes a problem for us to pursue any
43 kind of development order and that may complicate the
44 issues.

45 CHAIRPERSON KONYK: Right. And I think what
46 we're going to do today is just hear the issues, not vote
47 on them. Everybody is understanding that?

48 MS. SIEGEL: I'm here. I can provide you a
49 status report as to the variance.

50 CHAIRPERSON KONYK: Okay. All right. Well,
51 why don't we do what Mr. Basehart said and reorder this
52 to the last item on the regular agenda, and I don't think
53 we need to vote on that, right, because we're not
54 postponing it so there's nothing to vote on.

55 VICE CHAIRMAN BASEHART: You can just move it.

56 CHAIRPERSON KONYK: So it's moved.

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1 CHAIRPERSON KONYK: The next item on
2 postponement is BA2004-01001, Kilday & Associates, for
3 South Florida Water Management District, applicant. Good
4 morning.

5 MR. KILDAY: Since I'm here, I guess I should
6 make myself useful. I'm Kerian Kilday representing the
7 applicant. It's a mutual request. We're trying to work
8 out an issue regarding platting of a public piece of
9 property and we think we've got there, but we need the
10 time so that we are all jiving on the same page.

11 CHAIRPERSON KONYK: Okay. Is there anybody
12 here to speak against this item?

13 (No response)

14 CHAIRPERSON KONYK: And is this by right or by
15 vote?

16 MR. SEAMAN: By vote.

17 CHAIRPERSON KONYK: Okay. Any Board member...

18 VICE CHAIRMAN BASEHART: I make a motion that
19 we -- 30 days?

20 MR. KILDAY: That's fine.

21 VICE CHAIRMAN BASEHART: Postpone this item for
22 30 days.

23 CHAIRPERSON KONYK: Motion to postpone BA2004--
24 1001 for 30 days by Mr. Basehart.

25 MR. SADOFF: Second.

26 CHAIRPERSON KONYK: Second by Mr. Sadoff. All
27 those in favor.

28 BOARD MEMBERS: Aye.

29 CHAIRPERSON KONYK: Opposed?

30 (No response)

31 CHAIRPERSON KONYK: Motion carries unanimously.
32 BA2004-01001 is postponed.

33 MR. KILDAY: Thank you.

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40 CHAIRPERSON KONYK: The first item on the
41 consent agenda is BA2004-00789, Land Design South, agent,
42 for D.S. Realty to allow a wall to exceed the maximum
43 height requirement. Applicant, present. Your name for
44 the record.

45 MR. DUBIN: Neil Dubin from Abatar Properties.
46 Good morning.

47 VICE CHAIRMAN BASEHART: Are you the applicant?

48 MR. DUBIN: Developer who is going to construct
49 the wall.

50 CHAIRPERSON KONYK: Where's Land Design South?
51 They're not here?

52 MR. DUBIN: No. Brian couldn't make it.

53 CHAIRPERSON KONYK: Okay. All right.

54 MR. SEAMAN: I'm being told that we have the
55 wrong consent.

56 MR. AUBOURG: No. I'm saying that I spoke to
57 Brian Terry, and I told him that you need a consent in
58 order to speak on this item.

59 MR. SEAMAN: But isn't he the owner?

60 MR. AUBOURG: If he's the owner, it's okay.

61 CHAIRPERSON KONYK: Is there anybody here to
62 speak against this item?

1 (No response)
2 CHAIRPERSON KONYK: Okay. Any letters?
3 MR. SEAMAN: No.
4 CHAIRPERSON KONYK: Any Board member feel this
5 item warrants a full hearing?
6 VICE CHAIRMAN BASEHART: There are conditions.
7 CHAIRPERSON KONYK: I'm going to get that.
8 MR. SEAMAN: Okay.
9 CHAIRPERSON KONYK: Okay. He thinks I'm rusty
10 because I missed a couple meetings this year.
11 Development order and one condition. Do you understand
12 and agree with those?
13 MR. DUBIN: Yes, I do.
14 CHAIRPERSON KONYK: Okay. Then this item will
15 remain on consent. You can sit down.
16 MR. DUBIN: Thank you.
17 CHAIRPERSON KONYK: You can wait until we're
18 done and then we'll vote on the whole thing.

19
20 BOARD OF ADJUSTMENT CONDITIONS

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22 Zoning-1. By March 17, 2006, the applicant shall
23 construct the proposed abatement wall along the eastern
24 property line in order to vest the requested variance.

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31 CHAIRPERSON KONYK: BA2005-00005, Harold &
32 Kathleen Shafer, to allow an existing garage to be
33 converted into an accessory dwelling. Applicant, your
34 name for the record.

35 MR. SHAFER: Harold Shafer.

36 MS. SHAFER: Kathleen Shafer.

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

39 MR. SHAFER: Yes.

40 CHAIRPERSON KONYK: Okay. Any member of the
41 public here to speak against this item? Against it?
42 Okay. Is it to do with the variance specifically or is
43 it some other issue?

44 (PUBLIC SPEAKER) MR. SISSOM: Variance.

45 CHAIRPERSON KONYK: All right. This item will
46 be reordered to the first item on the regular agenda.

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53 CHAIRPERSON KONYK: The next item on consent is
54 BA2005-00008, Joseph & Debra Hughes, to allow a proposed
55 addition and an existing pond to encroach into the
56 required side interior setback. Applicant present. Your
57 name for the record.

58 MS. HUGHES: Debra Hughes.

59 MR. HUGHES: Joseph Hughes.

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

62 MR. HUGHES: Yes.

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

3 (No response)

4 CHAIRPERSON KONYK: Any letters?

5 MR. SEAMAN: There are three in support.

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

8 (No response)

9 CHAIRPERSON KONYK: Seeing none, this item will
10 remain on consent. You can have a seat until we get to
11 the end of consent.

12
13 BOARD OF ADJUSTMENT CONDITIONS

14
15 1. By March 17, 2006, the applicant shall obtain a
16 building permit for the proposed addition in order to
17 vest the variance approved pursuant to BA2005-008.

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19 2. Prior to the issuance of a final Certificate of
20 Completion, the applicant shall relocated the existing
21 20.1 ft x 11.1 ft aluminum shed in order to meet the
22 required front and side interior setback.

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24 3. Prior to the issuance of a Building Permit, the
25 applicant shall submit both the Board of Adjustment and a
26 copy of the approved survey/site plan to the Building
27 Division.

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34 CHAIRPERSON KONYK: The next item is BA2005-
35 00131, Robert Turso, agent, for Pablo Perez, to allow an
36 existing structure to encroach. Your name for the
37 record.

38 MR. TURSO: Robert Turso.

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

41 MR. TURSO: Yes, I do.

42 CHAIRPERSON KONYK: Any member of the public
43 here to speak against this item? Okay. This will be
44 reordered to the second item on the -- specifically to
45 the variance request, correct, your objections? It's got
46 to be towards the variance or we can't pull it. Are you
47 objecting to the variance or some other issue?

48 (PUBLIC SPEAKER) MR. WILSON: I'm objecting to
49 the variance, but I don't know exactly what's going on
50 with it all.

51 CHAIRPERSON KONYK: All right. Reordered,
52 second item on consent -- I mean regular.

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60 CHAIRPERSON KONYK: BA2005-00132, Winifred
61 Sweredoski & Michael Sweredoski, to allow an existing
62 addition to encroach into the required setback. Your

1 name for the record.
2 MR. SWEREDOSKI: Mitchel Sweredoski.
3 CHAIRPERSON KONYK: The staff has recommended
4 two conditions. Do you understand and agree with those?
5 MR. SWEREDOSKI: Yes.
6 CHAIRPERSON KONYK: Any member of the public
7 here to speak against this item?
8 (No response)
9 CHAIRPERSON KONYK: Any letters?
10 MR. SEAMAN: There are none.
11 CHAIRPERSON KONYK: Any Board member feel this
12 item warrants a full hearing?
13 (No response)
14 CHAIRPERSON KONYK: Seeing none, your item will
15 remain on the consent. Have a seat until we get to the
16 end of the consent.

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18 BOARD OF ADJUSTMENT CONDITIONS

19
20 1. By September 17, 2005, the applicant shall secure a
21 building permit in order to vest this variance.
22 (DATE:BUILDING:ZONING)

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24 2. The variance request is only for the existing
25 screened addition. All other improvements shall meet the
26 ULDC requirements. (ONGOING:ZONING:ZONING)

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33 CHAIRPERSON KONYK: BA2005-00133, Palm Beach
34 County to allow a reduction in the required landscaping.
35 Your name for the record.

36 MS. BERKOWSKI: I'm Melanie Berkowski with Palm
37 Beach County Facilities Development and Operations.

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

40 MR. SEAMAN: And, excuse me, there are
41 corrections on these conditions.

42 CHAIRPERSON KONYK: Okay.

43 MS. BERKOWSKI: And we're okay with the
44 corrections.

45 CHAIRPERSON KONYK: Okay. Do you need to read
46 the corrections?

47 MR. SEAMAN: Read them in. Condition one
48 should read by March 17, 2008, the applicant shall amend
49 the landscape plan submitted to the Building Department
50 to reflect the variance approval pursuant to BA2005-0133.
51 The second condition should read landscaping shall be
52 installed as shown on Kilday & Associates drawing #04-03
53 for District Park F dated February 21, 2005.

54 CHAIRPERSON KONYK: Okay. Any letters?

55 MR. SEAMAN: No, there are none.

56 CHAIRPERSON KONYK: Anybody from the public
57 against this item?

58 (No response)

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

61 (No response)

62 CHAIRPERSON KONYK: No, so that item will

1 remain on consent.

2
3 BOARD OF ADJUSTMENT CONDITIONS
4

5 1. By March 17, 2008, the applicant shall amend the
6 landscape plan submitted to the Building Department to
7 reflect the variance approval pursuant to BA2005-0133.
8

9 2. Landscaping shall be installed as shown on Kilday &
10 Associates drawing #04-03 for District Park F dated
11 February 21, 2005.
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18 CHAIRPERSON KONYK: BA2005-00134, Carol
19 Hickman, to allow a proposed addition to encroach into
20 the required side interior setback. Your name for the
21 record?

22 MS. HICKMAN: Carol Hickman.

23 CHAIRPERSON KONYK: Staff has recommended two
24 conditions. Do you understand and agree with those?
25

26 MS. HICKMAN: Yes.

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

29 (No response)

30 CHAIRPERSON KONYK: Any letters?

31 MR. SEAMAN: There are none.

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

34 (No response)

35 CHAIRPERSON KONYK: Seeing none, this item will
36 remain on consent.
37

38 BOARD OF ADJUSTMENT CONDITIONS
39

40 1. The variance request is only for the conversion of
41 the existing carport into a room addition. All other
42 improvements shall meet the ULDC requirements.
43 (ONGOING:ZONING:ZONING)

44 2. By March 17, 2006, the applicant shall secure a
45 building permit in order to convert the existing carport
46 into a room addition. (DATE:BUILDING:ZONING)
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53 CHAIRPERSON KONYK: The next item on consent is
54 BA2005-00135, Kilday & Associates, agent, for Ronald
55 Simon to allow the elimination of the required 10 percent
56 rear and side parking. Your name for the record?

57 MR. HACKETT: Good morning. James Hackett with
58 Kilday & Associates.

59 MR. SEAMAN: We have a correction.

60 CHAIRPERSON KONYK: Okay. Go ahead.

61 MR. SEAMAN: If you will notice, the Board was
62 passed out a revised site plan.

1 CHAIRPERSON KONYK: Okay.

2 MR. SEAMAN: And that site plan you have in
3 front of you should replace the one that's on page 47.
4 And basically the difference is that the approach has
5 changed.

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

9 MR. HACKETT: Yes, ma'am.

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

12 (No response)

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

15 (No response)

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

18

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20 BOARD OF ADJUSTMENT CONDITIONS

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22 1. By March 17, 2006, the applicant shall or prior to
23 DRO certification, the applicant shall amend the site
24 plan to reflect the variance approval pursuant to BA2005-
25 135.

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32 CHAIRPERSON KONYK: The next item on consent is
33 BA2005-00137, Kilday & Associates, agent, for Target
34 Corporation to allow a reduction of a portion of the
35 right-of-way buffer.

36 MR. CHAMPAGNE: Mike Champagne with Kilday &
37 Associates.

38 CHAIRPERSON KONYK: We had to send three people
39 for this? Even the boss is here.

40 VICE CHAIRMAN BASEHART: I think he's doing
41 their reviews.

42 CHAIRPERSON KONYK: Oh, okay. All right.
43 Staff had recommended two conditions. Do you understand
44 and agree with those?

45 MR. CHAMPAGNE: Yes, we do.

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

48 (No response)

49 CHAIRPERSON KONYK: Any letters?

50 MR. SEAMAN: One in approval, and one for
51 clarification.

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

54 (No response)

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

57

58 BOARD OF ADJUSTMENT CONDITIONS

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60 1. By March 17, 2006, or prior to DRO certification,
61 the applicant shall amend the site plan to reflect the
62 variance approval pursuant to BA2005-137.

1
2 2. All plant materials required by the ULDC within the
3 15 ft right-of-way buffer shall be installed within the
4 approved 6-5 feet buffer along the southern portion of
5 the compactor loading zone as display on the applicant
6 site plan dated 2/1/05.
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13 CHAIRPERSON KONYK: Let me just recap here. We
14 have BA2004-00789, BA2005-0008, BA2005-00132, BA2005-
15 00133, BA2005-134, BA2005-00135, and BA2005-00137. Can I
16 have a motion for approval?

17 MR. SADOFF: So moved.

18 CHAIRPERSON KONYK: Motion by Mr. Sadoff.

19 MR. CUNNINGHAM: Second.

20 CHAIRPERSON KONYK: Second by Mr. Cunningham.
21 All those in favor?

22 VICE CHAIRMAN BASEHART: Madam Chair, I would
23 just like to reflect that, and I think it stands for
24 everyone, that my vote is based on the staff report, and
25 I'd like the staff report to become the record of the
26 public hearing.

27 CHAIRPERSON KONYK: Okay. More discussion?

28 (No response)

29 CHAIRPERSON KONYK: Seeing none, all those in
30 favor?

31 BOARD MEMBERS: Aye.

32 CHAIRPERSON KONYK: Opposed?

33 (No response)

34 CHAIRPERSON KONYK: Motion carries unanimously.
35 All right. Anybody that's been on the consent and
36 approved can leave. The two items that were reordered
37 will be taken in just a minute, actually three items.
38 One of them was off the postponement.

39 MR. CUNNINGHAM: Do we have the minutes from
40 the January meeting in reference to the postponement
41 item? What are we doing? I mean there was a lengthy
42 discussion and obviously there were a lot of violations
43 and a lot of things that were out of order when they were
44 here in January, and for them to just simply come back
45 two months later for another postponement.

46 MR. SEAMAN: Well, we haven't been -- staff has
47 not been informed of any status...

48 CHAIRPERSON KONYK: That's not the item we're
49 on so wait until we get there. We have the other item
50 first.

51 MR. CUNNINGHAM: I know that. Why are we
52 wasting our time on a postponed item?

53 CHAIRPERSON KONYK: Bob told me to say that.
54 You're going to leave anyway in five minutes, aren't you?

55 MR. CUNNINGHAM: Right.

56 CHAIRPERSON KONYK: So you're not wasting any
57 of your time. You're just wasting ours now. Okay.
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2 CHAIRPERSON KONYK: The first item on the
3 reordered agenda BA2005-00005. Applicant for this item,
4 Harold and Kathleen. Could you come forward? And while
5 you're coming forward, you've been sworn in, correct?

6 MR. SHAFER: Yes.

7 CHAIRPERSON KONYK: Could the staff introduce
8 this item, read the legal?

9 MR. GAMEZ: BA2005-00005, Harold & Kathleen
10 Shafer, owners, to allow an existing garage to be
11 converted into an accessory dwelling and to encroach into
12 the required side interior and rear setbacks. Location
13 is 13173 157 Court, approximately .12 mile east of 133
14 Terrace North and approximately .08 mile north of 155
15 Street North in the AR Zoning District.

16 CHAIRPERSON KONYK: Okay. You're requesting a
17 variance of 15 feet and another variance of 26 feet, and
18 there are seven criteria that have to be met in order to
19 receive this variance. Do you want to give us your -- do
20 you want to say something about this variance? Speak
21 into the mike.

22 MS. SHAFER: Yeah. We would just like the
23 apartment -- my daughter has a terminal illness, and we
24 would just like to have the apartment so that she can
25 live there and we can take care of her.

26 CHAIRPERSON KONYK: Okay. I'm going to ask you
27 to come forward, the gentleman that's objecting, and
28 let's see what you have to object about and then we'll
29 hear from the applicant again.

30 MR. SISSOM: I'm Roy Sissom. I live next door
31 to the property.

32 CHAIRPERSON KONYK: And you live next door, is
33 that what you said?

34 MR. SISSOM: Yes, ma'am.

35 CHAIRPERSON KONYK: Okay.

36 MR. SISSOM: My only problem is that when I
37 moved in this was a garage with a 10-foot door.

38 CHAIRPERSON KONYK: Could somebody close that
39 door or move those people from the outside. I think it's
40 conflicting and the court reporter can't hear. Okay,
41 now.

42 MR. SISSOM: Okay. So when I moved in here two
43 years ago this was a garage, open garage with a 10-foot
44 high opening for say a big truck or whatever. He come in
45 and put the floor in, brought the door down to seven feet
46 and put the floor in. It's not an undue hardship on him.
47 He come in illegally and put this floor in. It should
48 have never been put there to begin with. I wouldn't so
49 much mind this. The windows overlook my yard, my
50 property, my kids room.

51 CHAIRPERSON KONYK: Where do you live?

52 MR. SISSOM: Next door to the east.

53 CHAIRPERSON KONYK: Is it a home next door?

54 MR. SISSOM: Yes, I'm in the home.

55 CHAIRPERSON KONYK: Okay.

56 MR. SISSOM: I wouldn't be so much against it
57 if they could close the windows off that overlook my
58 property and put a six-foot fence up. They have runners
59 in the front. They want runners in this thing. They
60 have a gentleman living in a Winnebago in the back yard.
61 The lights, the traffic was a little bit much. It would
62 be okay if they close off the windows that overlook my

1 property. I'd still prefer not the traffic, but...

2 CHAIRPERSON KONYK: Traffic from the what?

3 MR. SISSOM: From the people that live there.

4 When their daughter moved in her girlfriend moved in. A

5 gentleman moved in with them.

6 CHAIRPERSON KONYK: Well, I mean that's a car

7 here and a car there. You're not talking about hundreds

8 of cars coming down the road.

9 MR. SISSOM: The family up front and the

10 gentleman that lives in the Winnebago, yeah, all of a

11 sudden it's traffic so...

12 VICE CHAIRMAN BASEHART: That sounds like a

13 code enforcement issue. I think maybe you should have

14 them look into that.

15 MR. SISSOM: And this thing that says there's

16 other properties like this that's not so much different.

17 I drove around for a day. There is not another property

18 with a garage with an apartment on the second floor this

19 close to someone else's property line.

20 MR. SEAMAN: I think the reference is to

21 accessory dwelling, not the fact that it's a garage with

22 an apartment in it. There are many accessory dwellings

23 in the county, and the requirement is that both the

24 accessory dwelling and the primary home are owned by one

25 individual. In your case, perhaps a condition of

26 landscaping trees or something across that window would

27 satisfy the concern of people looking out.

28 MR. SISSOM: Right. Exactly. I have four

29 children and I'd just rather not have that, so a six-foot

30 fence I think was part of the deal on the side, is that

31 right?

32 MS. SHAFER: We have taken -- we have purchased

33 some shade trees that we're planting, and we've also --

34 and I have pictures here. We have also placed some

35 blinds in the windows so that -- but the only person

36 being there would be my daughter who sleeps a lot anyway,

37 you know. But we have purchased two big shade trees that

38 we'll...

39 MR. SHAFER: We actually brought some pictures

40 that you can actually see more of the house. You can see

41 more of his house from that window.

42 MS. SHAFER: From the main house.

43 MR. SHAFER: From the main house than you can

44 from the garage.

45 MS. SHAFER: It sits back.

46 MR. SHAFER: And besides that the garage

47 windows are low. I mean you have to crouch down to see

48 it. It's down on a 45 degree angle as you can see by the

49 pictures.

50 MS. SHAFER: But we'd be happy to do -- and Mr.

51 Sissom has -- is that your fence there?

52 MR. SHAFER: Yes, it is.

53 MS. SHAFER: Has about five or six panels of

54 fencing already down there.

55 MR. SHAFER: The previous owner did that.

56 MS. SHAFER: And we would be happy to extend

57 that if we're allowed to bring it past the garage.

58 MR. SHAFER: Just block off the windows.

59 CHAIRPERSON KONYK: I don't think his request

60 is unreasonable because I can understand his concern. I

61 mean you're closer to the setback than you're supposed to

62 be and it's removing a lot of the privacy that he would

1 like to enjoy, and I don't think it's an unreasonable
2 request but I'm not quite sure how to accomplish it.
3 Maybe Mr. Basehart can help us out here.

4 MR. SISSOM: Well, there was four windows on
5 there originally and they blocked off two of them already
6 so they just need to block off the other two.

7 CHAIRPERSON KONYK: Are there windows on the
8 other side?

9 MS. SHAFER: No.

10 MR. SHAFER: Yes.

11 MS. SHAFER: This is the only -- you can't see
12 through them.

13 CHAIRPERSON KONYK: I'm just asking for light
14 purposes. Are there windows on the other side?

15 MS. SHAFER: Yes.

16 CHAIRPERSON KONYK: Okay.

17 VICE CHAIRMAN BASEHART: Maybe there are others
18 on this Board that know a lot more about it than I but
19 there are emergency escape requirements in a building, a
20 fire code. If you close the windows off so that they're
21 not openable or escapable windows you may have a code
22 issue there.

23 MR. SISSOM: There's windows on the other side
24 that -- the place isn't that wide, about 15-foot wide, 20
25 foot, so I don't see why...

26 CHAIRPERSON KONYK: Well, I don't even know
27 that they'd necessarily have to be closed off but maybe
28 they could have an opaque glass or something.

29 MS. SHAFER: We purchased some blinds.

30 VICE CHAIRMAN BASEHART: I don't think blinds
31 are going to do it because you can open and close them.

32 MS. SHAFER: You can't see through them.

33 MR. SEAMAN: Can I interject the use of the
34 trees again?

35 CHAIRPERSON KONYK: Sure.

36 MR. SEAMAN: Cluster palms. I know the area
37 between the building and the property line is rather
38 narrow so you can't put a typical canopy tree in there,
39 am I correct?

40 MS. SHAFER: I'm sorry?

41 MR. SEAMAN: You can't put a typical wide
42 canopy tree but you certainly could use cluster palms in
43 there, Alexandras or some other clump type palm and be
44 sure that the overall height meets right at the window so
45 the head is full. Maybe even sable palms would work, and
46 that would completely block the window.

47 MS. SHAFER: We purchased two mahogany trees
48 and they said that there's plenty of room for those.
49 It's about 16 foot so they said, and they will grow quite
50 wide.

51 MR. SHAFER: Not only that but the trees that
52 are there now are blocking the view. It's already there.

53 MR. SEAMAN: Well, I think probably the
54 operative word is that it's opaque meaning that there's
55 so much green foliage there there is no way to see
56 through it. Certainly light still comes into the room.
57 The best plant in my opinion is sable palms.

58 CHAIRPERSON KONYK: Okay. Mahogany can be a
59 problem in a hurricane because of the pods on a mahogany
60 tree. They can become projectiles. I would look at,
61 like he said, a sable. Maybe put those in your back yard
62 but I never knew mahoganies were fast growing.

1 MS. SHAFER: The landscaper told us that.

2 MR. SEAMAN: Another suggestion, perhaps glass
3 block, the glass block that you can't see through but it
4 gives you light.

5 CHAIRPERSON KONYK: Again, though, he's got
6 that concern with the fire -- I mean we can't make that
7 determination to close that window off. We can make the
8 determination to make it some sort of glass that you
9 can't see through, but I think we have to remain -- leave
10 that window opening and closing just so we don't create
11 another issue.

12 MR. SEAMAN: We could condition that a
13 landscape inspector actually go out and be sure that the
14 opaqueness that we're looking for is there and does meet
15 the intent of giving the neighbor the privacy he's
16 looking for.

17 CHAIRPERSON KONYK: Right. Ms. Cardone.

18 MS. CARDONE: Madam Chairman, I got a few
19 problems with this. I see that this began as an out
20 building, a garage, and according to the description I
21 have they want to take a detached garage and create an
22 accessory dwelling. I would think that would require
23 septic facilities.

24 MR. SEAMAN: They'll need to go through --
25 they'll have to show they have water and sewer.

26 MS. CARDONE: Okay. So now we're not talking
27 about accessory building. We're talking about a
28 residential building. That's clearly within the
29 setbacks. In Jupiter Farms that entire rural area is
30 large lots because people go out there for privacy, and
31 those setbacks are there for everybody. We have in the
32 past made people take down buildings because they were in
33 the setbacks. Now this neighbor is being very kind but
34 there is the expectancy when you live in that area that
35 people are not going to build within that setback that
36 you have that privacy.

37 We're talking about a much more intensive use
38 even with a couple of trees, which, you know, in
39 hurricane season become not much protection. You can
40 pretty much see everything just like you can right now.
41 I live there. I have a problem with this. You're now
42 allowing a use that a lot of other people have not been
43 granted, and I don't see that that meets the criteria.

44 CHAIRPERSON KONYK: What was your justification
45 for putting...

46 MR. SEAMAN: Actually it's a garage now, and
47 we're looking at the impact of the facility of the
48 building itself to adjacent properties, so the building
49 is there. It's already there regardless of what you
50 choose to do today. And there are several, if not -- I
51 mean since I've been here we've issued, and they're
52 called accessory dwellings on top of garages, along side
53 garages, without garages. And they need to meet the
54 primary residence setback so that's the issue here. The
55 accessory dwelling should meet the same setbacks of the
56 primary residence. So there is that issue of you got a
57 garage that exists. The impact is there. But as Board
58 Member Cardone just suggested that you may be impacting
59 the person living there with traffic and other things
60 that you're concerned with.

61 VICE CHAIRMAN BASEHART: I'm confused. Looking
62 at the photographs and the description says this is to

1 convert an existing one-story garage into an accessory
2 dwelling unit, but the pictures clearly indicate that
3 this is a two-story structure.

4 MR. SEAMAN: And I just heard some information
5 that I'm not sure is true or not, that you put -- this is
6 new information, you put a floor in there?

7 MR. SHAFER: Most of it was already done. The
8 electric and all that was already done.

9 MR. SEAMAN: With a permit?

10 CHAIRPERSON KONYK: Let the record reflect that
11 Mr. Cunningham has left.

12 MR. SHAFER: I don't know because the person
13 that owned it before committed suicide so we can't find
14 that information. It wasn't on record. But my
15 understanding from the neighbors is that he was living in
16 there because him and his wife had had arguments and
17 split up and he was living in the garage.

18 MR. SISSOM: When I moved in it was nothing --
19 like I said, the door was 16 wide and it was 10-foot
20 high. There's never been a garage door there so it's
21 always been open so if he was living in there...

22 CHAIRPERSON KONYK: Maybe that's why he killed
23 himself.

24 MR. SEAMAN: To direct Mr. Basehart's direct
25 questions, the survey indicates just that it's a one-
26 story garage, so I'm not sure how it got to be two
27 stories.

28 VICE CHAIRMAN BASEHART: Well, who took the
29 pictures?

30 MR. SHAFER: It's always been that.

31 MS. SHAFER: It's always been that, yeah.

32 VICE CHAIRMAN BASEHART: Who took -- did you
33 submit the pictures or did the staff take them?

34 MS. SHAFER: I took the pictures. It's been
35 that since we...

36 VICE CHAIRMAN BASEHART: Look at the east side
37 photograph. You can see the main door there.

38 MR. AUBOURG: Yes. The survey shows one story
39 but staff knows that it's a two-story garage actually.

40 CHAIRPERSON KONYK: So the survey is incorrect?

41 MR. AUBOURG: Yes.

42 VICE CHAIRMAN BASEHART: The living area that
43 you're talking about, would that be on the upper level or
44 the lower level?

45 MS. SHAFER: The upper level.

46 VICE CHAIRMAN BASEHART: So it is intended to
47 be a two-story...

48 MR. SEAMAN: And there may be some code
49 enforcement issues that weren't realized, we didn't know
50 about before. Perhaps we should be checking into that.

51 VICE CHAIRMAN BASEHART: I'm real concerned
52 about this. If the applicant wouldn't object to a
53 postponement on this for 30 days for the staff to do some
54 additional research and maybe for you to provide some
55 mitigation offerings. You know, I really think
56 especially now that we find out -- if you look at the
57 picture the windows are on the second level. They're not
58 on the ground level. And if that's the level that's
59 going to be converted to the dwelling, you know, that
60 means -- and the impact on the surrounding home is that
61 much greater because of the height. And I think that
62 there ought to be some consideration at a minimum given

1 to glass blocking the windows that are there on that
2 side, on the neighbor's side, so that you can get light
3 through them but not visual.

4 And then also I think a thorough investigation
5 on what you're going to need to do to that to meet code.
6 We may grant this variance and find out we end up with
7 something very different from what we thought we were
8 ending up with. I think there's going to be other
9 windows need to be put in to provide adequate ventilation
10 and escape opportunity. And I really think that you need
11 to look real carefully at what you can do to mitigate any
12 impact you're going to create on your neighbor from doing
13 this.

14 MS. SHAFER: We're willing to do whatever we
15 can to...

16 CHAIRPERSON KONYK: I also think code
17 enforcement should take a look at some of these issues as
18 well before we come back here, Alan.

19 MR. SEAMAN: I've got that note on here.

20 VICE CHAIRMAN BASEHART: Based on those issues
21 and based on the applicant's indication of willingness to
22 postpone this for 30 days, I make a motion that we
23 postpone this to our April meeting.

24 CHAIRPERSON KONYK: Motion by Mr. Basehart to
25 postpone BA2005-00005 to the April meeting.

26 MS. CARDONE: Second.

27 CHAIRPERSON KONYK: Second by Ms. Cardone. Any
28 discussion?

29 (No response)

30 CHAIRPERSON KONYK: All those in favor?

31 BOARD MEMBERS: Aye.

32 CHAIRPERSON KONYK: Opposed?

33 (No response)

34 CHAIRPERSON KONYK: Motion carries unanimously.
35 We'll revisit this next month. Everybody all right with
36 that?

37 MS. SHAFER: Yes.

38 CHAIRPERSON KONYK: Okay. Thank you.

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45 CHAIRPERSON KONYK: The next item is BA2005-
46 00131, Robert Turso, agent, for Pablo Perez, to allow an
47 existing structure to encroach into the required rear and
48 side interior setback. Your name for the record?

49 MR. TURSO: Robert Turso.

50 CHAIRPERSON KONYK: And you've been sworn in?

51 MR. TURSO: Yes.

52 CHAIRPERSON KONYK: Staff would like to
53 introduce this item.

54 MR. GAMEZ: BA2005-0131, Robert A. Turso,
55 agent, for Pablo & Odalys Perez, owners, to allow an
56 existing structure to encroach into the rear and side
57 interior setback, and to allow an existing concrete slab
58 to encroach into an easement. Location, 2064 E. Carol
59 Circle, approximately .17 mile east of Haverhill Road,
60 and approximately .18 mile south of Purdy Lane within the
61 Lewis Estate, unrecorded subdivision in the RM Zoning
62 District, Petition 1992-048).

1 CHAIRPERSON KONYK: Okay. We'll hear from the
2 applicant first. Do you want to tell us about your
3 variance?

4 MR. TURSO: Yeah. This is an existing
5 structure that was there when Mr. Perez bought the
6 property that had been converted by prior owner to a
7 residential unit, which was the primary reason for Mr.
8 Perez buying it so that he would have a place for his
9 mother to stay. It was built originally as a storage
10 building, which at the time conformed to the setbacks
11 since its residential setbacks are different.

12 CHAIRPERSON KONYK: Right.

13 MR. TURSO: So we're requesting a variance to
14 the existing setbacks.

15 CHAIRPERSON KONYK: Okay. And there's somebody
16 here objecting to this. I'd like to hear what your
17 objection is.

18 MR. WILSON: Yes, ma'am. My name is James
19 Wilson. I live in the neighborhood.

20 VICE CHAIRMAN BASEHART: Do you live adjacent
21 to this property, are you a next door neighbor?

22 MR. WILSON: Yes, sir.

23 VICE CHAIRMAN BASEHART: Okay.

24 MR. WILSON: Not a next door neighbor. The
25 street has -- coming down the street to the north, it has
26 five small cul-de-sacs on the right-hand side, and that
27 home is in the next to the last cul-de-sac. I live at
28 the very end of Carol Circle, which is at the end of the
29 street.

30 VICE CHAIRMAN BASEHART: So is your property
31 physically adjacent to this property?

32 CHAIRPERSON KONYK: Does your property line
33 touch this property line?

34 MR. WILSON: No, ma'am.

35 CHAIRPERSON KONYK: Okay.

36 MR. WILSON: I was reading under the -- when it
37 says here the structure was built in '63 in conjunction
38 with the main residence, that's not correct. The
39 gentleman that lived in that home before the people now
40 asked me to help him put this building on the property.
41 He brought it in on a trailer, put it there and the
42 county inspector came out and said he couldn't have it
43 there because it was too close to the property line. So
44 he turned the building 90 degrees. He asked me to help
45 him do that part. He reformed the slab under it and
46 that's how the building got there.

47 So it should be within the lot line because the
48 inspector was there. If it's not, it's only because
49 there were additions made to it.

50 VICE CHAIRMAN BASEHART: Just to clarify,
51 correct me if I'm wrong, maybe I misunderstand, the
52 reason that there's a setback issue here is because the
53 owner wants to convert a storage building to a dwelling,
54 and that increases the setback requirement?

55 MR. SEAMAN: From the record it's already an
56 accessory structure. It has a bathroom, a kitchen, and a
57 bedroom in it.

58 VICE CHAIRMAN BASEHART: Well, does your
59 research indicate that that stuff was ever permitted?
60 The record of the building permits issued on this
61 property, was there ever...

62 MR. SEAMAN: There should be a search to see...

1 VICE CHAIRMAN BASEHART: According to this
2 gentleman there was a permit to put a shed in, and a
3 building inspector came out and said there must have been
4 a permit, you know, for that, but then apparently there's
5 been some additional work done. Plumbing has been put
6 in, whatever. The question is was that permitted?

7 MR. SEAMAN: I think that's something that
8 we...

9 MR. TURSO: The conversion to a residential
10 unit was never permitted. He was under code violation.
11 That's what brought this whole thing about.

12 VICE CHAIRMAN BASEHART: Okay.

13 MR. TURSO: It was my understanding that it was
14 originally permitted as a storage building. And as a
15 matter of fact the original code violation was for a
16 structure that was built without a permit. That was
17 revised. He revised that and the original building was
18 permitted as a storage building. The conversion was done
19 without permits. That was done by a prior owner before
20 Mr. Perez bought the property. So it was in compliance
21 with the setbacks for a storage building, and once it was
22 converted to a residential unit it no longer complied
23 because the setbacks are different.

24 VICE CHAIRMAN BASEHART: That was my question.
25 Okay.

26 MR. WILSON: The folks that live in there now,
27 they've lived in there -- I'm not sure exactly. Let me
28 look here.

29 CHAIRPERSON KONYK: You helped move this
30 building once already?

31 MR. WILSON: Ma'am, in the early '80s.

32 CHAIRPERSON KONYK: Would you help move it
33 again?

34 MR. WILSON: Well, it's not that. I'm supposed
35 to do things in this county and when I see my
36 neighborhood going like it is, I just -- I feel there's
37 something wrong with that. I've got to come to these
38 meetings, and I've got to straighten my place up because
39 the county says I have to. When you have somebody go in
40 and redo, you know, I have something wrong with that.
41 They just redo without the permits and the proper -- I've
42 always been pretty proper in my life. I've tried to be.
43 You can't be any other way with this county.

44 MR. JACOBS: Excuse me, sir. Is the basis of
45 your objection civic moral?

46 MR. WILSON: Sir, you know, I got to tell you I
47 went through the 12th grade, went through Lake Worth High
48 School. I'm just a simple guy out here with a simple
49 trade. I'm disabled from that. And when you say...

50 MR. JACOBS: What I mean is you're not an
51 adjacent homeowner. Your properties are not adjacent.
52 The structure has been there for 32 years.

53 MR. WILSON: The structure has not been there
54 for 32 years. My grandfather owned that 10 acres all
55 those pieces of property are on, so I've been there 33
56 years and my grandfather before me. There was one home
57 on them ten acres. Now there's multiple and folks are
58 coming in. The traffic is raising because all the people
59 in there are trying to move in other families in their
60 homes that they don't have a right to do. Instead of a
61 single family dwelling it's a multiple family dwelling.
62 That's what this is. Is this a rental property or is it

1 a guest house like they say on the plan? I think there's
2 something wrong or -- I'm sorry. My mouth is getting
3 dry. I had written some things down here, and if I don't
4 read them, I'll just...

5 CHAIRPERSON KONYK: Okay. Well, we'll wait.

6 MR. WILSON: I guess there were no permits
7 issued for the additions, and if there were permits
8 issued for the septic it would have had to be upgraded
9 because they added -- the homes there are three bedrooms,
10 two baths, all of them. If they've added a bath and a
11 bathroom shower, kitchen, all that has to be considered
12 in sizing of the septic, and really is there any room to
13 do that? Is there any room to upsize a septic system?

14 They put these buildings there, and I know the
15 lots are small, .18 of an acre is not much to put a drain
16 field and septic on. I know they have city water, but
17 the people that don't are really pushed by the septic
18 system out there. I guess here to say if this is a
19 single family dwelling if you have this other building
20 there and they rent it because it's not just happening
21 there in that home. There's another home just two houses
22 away from there, there's three families living in the one
23 home.

24 It has nothing to do with this, but it's just I
25 see the trend of that neighborhood. Quality of life is
26 going down there. I raised five children in a home with
27 my wife. Just a question here. I couldn't really find
28 it in the recommendations. There's a slab encroachment
29 also. Do you know the location of that?

30 MR. SEAMAN: The encroachment is into a
31 somewhat existing easement, which is also being
32 addressed.

33 MR. WILSON: Is it to the east?

34 MR. SEAMAN: To the west.

35 MR. WILSON: To the west. I suppose if people
36 knew what the drainage system was out there, that street
37 in particular it fills with water...

38 CHAIRPERSON KONYK: Can I interrupt you? A
39 structure's encroachment into a utility easement. How
40 can we give them permission of a variance to encroach
41 into a utility easement? We don't have any...

42 MR. SEAMAN: We have release agreements.

43 CHAIRPERSON KONYK: Okay. All right.

44 MR. SEAMAN: And also the issue of concerns --
45 a special permit also has to be issued. And of course it
46 may be prudent to have an inspector go out first and see
47 if that building can even meet the required code because
48 if it doesn't meet the code then the special permit would
49 be of no value.

50 CHAIRPERSON KONYK: Right. I know. I think
51 that's something that probably should have been done
52 before we got here.

53 MR. WILSON: I'm one not to come to these
54 meetings just because of what can happen to people when
55 they do what they do. That's why I try to stay like I
56 am.

57 MR. SEAMAN: It's generally the process that we
58 would with a special permit we'd go downstairs, they'd
59 have to provide drawings and so forth downstairs with
60 that special permit. At that time it would be reviewed
61 to see if it met the circumstances for the Building
62 Department.

1 MR. AUBOURG: The first step is to get the
2 variance, then the special permit.

3 CHAIRPERSON KONYK: Because if they don't get
4 the variance they can't go forward. We've had this issue
5 before.

6 MR. AUBOURG: The variance would just die.

7 VICE CHAIRMAN BASEHART: It's kind of a chicken
8 or egg thing, but I mean it may very well be that if they
9 get the variance when they apply for the permit they're
10 going to find out that improvements necessary to bring it
11 to code may be not feasible so they may be going through
12 this for nothing.

13 MR. AUBOURG: Yeah, the application is taking a
14 chance.

15 MR. SEAMAN: It's their option if they want to
16 go pursue it. We can't deny them the opportunity to go
17 for the variance. We have to put it together. We also
18 have three letters, and one is in agreement and the two
19 others are just clarification just so the Board knows.

20 VICE CHAIRMAN BASEHART: I think the question
21 was asked before, and I still have a question, you've
22 indicated you are not an adjacent neighbor. And the
23 question is why are you objecting? Do you have any
24 standing to object? I mean how does this impact you? Is
25 it your sense of responsibility that people should be
26 required to comply with the codes or do you feel that the
27 approval of this variance would actually have a negative
28 impact on you and your property? What is it about the --
29 if this is approved, how is it going to hurt you?

30 MR. WILSON: Sir, it doesn't hurt me. It's
31 just when you try to abide by what is put out and you
32 have to go by it everybody should go by it.

33 VICE CHAIRMAN BASEHART: Okay.

34 MR. WILSON: I mean I don't see anything wrong
35 with that. If I have to do it, you have to do it. I
36 mean everybody here, if you have to do it, so do I. They
37 put the rules out there and you just go by them. If you
38 have people to break them the people either end up in
39 jail or they end up worrying about coming to these
40 meetings.

41 CHAIRPERSON KONYK: But one of the things that
42 is available to everyone is these kind of meetings to
43 request a variance, so they do have an opportunity to
44 request a variance and the public has an opportunity to
45 be heard. And in this forum we have seven criteria that
46 either have to be met -- that have to be met or the
47 variance does not get approved. And the staff has done
48 their homework and the applicant has done their work and
49 have come up to the conclusion that this item does meet
50 the seven criteria. So I probably should have explained
51 that to you at the beginning that if there's something in
52 the seven criteria that you don't feel that they're
53 meeting, some of the issues that you're bringing up as
54 they go through the permitting process will be addressed.

55 But as Mr. Seaman explained they can't even get
56 to the permitting process until they have the variance.
57 So maybe these issues would prevent them from going
58 forward, but at this point the staff has come to the
59 conclusion that this item has met the seven criteria.
60 Now I'm not sure that all the Board members are
61 comfortable with that, and if they're not they need to
62 let us know which criteria they feel has not been met.

1 And if you are aware of one of the seven criteria that
2 hasn't been met, then if you could tell us which one you
3 feel that hasn't been met.

4 MR. JACOBS: I have a question, Madam Chair.

5 CHAIRPERSON KONYK: Sure.

6 MR. JACOBS: The staff discussion of the six
7 criteria states the structure was built at code
8 requirements in 1963, and in the seventh -- discussion of
9 the seventh criteria it says the structure has been there
10 for 32 years. Now the gentleman who's objecting states
11 that's not the case.

12 CHAIRPERSON KONYK: He's stating it's been
13 there for 25 years or 20 years.

14 MR. WILSON: Yes, ma'am.

15 CHAIRPERSON KONYK: Okay. Right. And it was
16 permitted or something. You said the...

17 MR. SEAMAN: As a garage.

18 CHAIRPERSON KONYK: As a garage. You said
19 there was an inspection done or something.

20 MR. WILSON: It was more of a tool shed. It
21 wasn't a garage with like a garage door. But if it had a
22 garage door, it was converted to that.

23 CHAIRPERSON KONYK: Okay. But it was done with
24 a permit at the time?

25 MR. WILSON: Ma'am, all I did was help that
26 neighbor move that building around.

27 CHAIRPERSON KONYK: Well, you said you saw the
28 building official there.

29 MR. WILSON: The inspector came out and said it
30 was all right.

31 CHAIRPERSON KONYK: Okay. Usually the
32 inspector only comes out if they've done it with a
33 permit. They usually don't just happen by, but that's
34 something that will come up throughout the process anyway
35 if it hasn't been permitted.

36 MR. WILSON: When he was reading the
37 description of the complaint he needs to correct where it
38 says to the south of Purdy Lane because it's to the north
39 of Purdy Lane, when he read the description of where the
40 property is located. People at the south end of Purdy
41 Lane would wonder where is that. The address tells you
42 where it is but it's north of Purdy Lane.

43 CHAIRPERSON KONYK: Is that correct? You don't
44 know?

45 MR. WILSON: I know.

46 CHAIRPERSON KONYK: I know you know. It is
47 north.

48 MR. WILSON: If that structure was going to be
49 used for a mother to live in and not a rental, I wouldn't
50 have an objection because if I had a place, I'd do the
51 same. I'd want my mother to live there. If it's rental
52 property there really should be something done about it.

53 CHAIRPERSON KONYK: Is this happening under --
54 I don't know what it's called, isn't there some kind of
55 permitting for relative, an elderly relative?

56 MR. SEAMAN: It's called accessory dwelling.
57 It used to be for elderly, indigent or handicapped folks.
58 We changed the code. You no longer have to meet those
59 three criteria. What you have to meet is both units have
60 to be owned by the same party.

61 CHAIRPERSON KONYK: So then they could
62 eventually rent it to someone?

1 MR. SEAMAN: Yes.

2 CHAIRPERSON KONYK: Okay. Is that Broward that
3 does that granny thing?

4 VICE CHAIRMAN BASEHART: No, that's the way it
5 started here. They liberalized it.

6 MS. CARDONE: Madam Chairman.

7 CHAIRPERSON KONYK: Yes.

8 MS. CARDONE: I've got to get going so I do
9 just want to make some remarks. I'm looking at this a
10 little bit differently. I do think that the gentleman
11 who was in the community who has come forward with his
12 remarks is very much in order because you don't just live
13 in a home, you live in a community, and when things
14 affect your community it really does affect you, so I'm
15 glad that he came to share some information with us. I
16 want to let staff know that as I look at the criteria I
17 never consider the fact that, well, somebody built it.
18 They didn't have any permits, but they built it and now I
19 have to deal with it. I don't consider that
20 justification.

21 I don't see that that entitles them to
22 something that no one else is entitled to, and that's why
23 I'm starting to see a bit of here. I'm starting to see
24 that these things are being done. They're not permitted.
25 They're not allowed. They get done anyway and they come
26 to us for the variance to say, well, it's a hardship on
27 me. It's now a hardship because there are financial
28 considerations to remove this. I don't know how I'm
29 going to do this. You know, that's not meeting the
30 criteria to my mind, and I think it's a very dangerous
31 precedent to set. I think really that should have been
32 addressed here a little bit because that's what we're
33 seeing.

34 And I think that's really important that we
35 know that stuff. I wouldn't vote to go forward with this
36 unless I was 100 percent sure that this met all the
37 criteria when it was built even though it doesn't now
38 because otherwise I wouldn't vote for it.

39 MR. SEAMAN: I think that's a good point. I
40 think also if I could just -- one of the things we look
41 at are unique circumstances or events that have taken
42 place that are very unusual. And sometimes we consider a
43 building has been there for 20 some years and no one in
44 the neighborhood has stepped up and said I have a problem
45 with this, then we're not hearing there's an issue with
46 it. So we sometimes look at that as part of why we make
47 our decisions the way we do.

48 VICE CHAIRMAN BASEHART: My understanding of
49 the situation is that the building was built with a
50 permit. It was legitimate. But it was built as a
51 storage shed or a storage building. Somewhere down the
52 lien it got converted to a dwelling, and I haven't heard
53 -- there's no indication that that was ever permitted.

54 MR. TURSO: That was never permitted.

55 VICE CHAIRMAN BASEHART: Okay. How long ago
56 did that happen?

57 MR. TURSO: That I don't know. Mr. Perez
58 purchased the property, I believe, in 2000, and it had
59 been done prior. It had been done by a prior owner. And
60 one of the reasons he purchased the property was because
61 that unit was there, it was available that his mother
62 could live in. And I might make to Ms. Cardone, I can

1 appreciate your feelings. However, the permit for this
2 building, if it is approved, will be for a mother-in-law
3 apartment and a condition of a mother-in-law apartment is
4 that once that mother or elderly person no longer resides
5 there the building has to be returned to a storage unit.
6 It cannot be kept as a building unit.

7 VICE CHAIRMAN BASEHART: That's been changed.

8 MR. TURSO: That's been changed?

9 VICE CHAIRMAN BASEHART: Yes.

10 MR. TURSO: Oh, well, see, I wasn't aware of
11 that.

12 VICE CHAIRMAN BASEHART: Yeah, I wasn't either.

13 MR. SEAMAN: They still can remove the kitchen
14 if no one is living in there and using it...

15 VICE CHAIRMAN BASEHART: If nobody is living in
16 there but if Mr. Perez's mother or mother-in-law is
17 living in there and she wins the lottery and she moves
18 somewhere else he could rent that unit out to anybody.

19 MR. TURSO: Well, I wasn't aware of that. The
20 rule would usually be that once that person moved out
21 that building had to be reverted back to its original
22 storage.

23 MR. SEAMAN: One of the conditions of a special
24 permit is the main or the primary residence has to be
25 owner occupied so you can't have...

26 CHAIRPERSON KONYK: All the buildings rented
27 out.

28 MR. SEAMAN: You have to live in the main
29 building, and I think that the thought is that you
30 probably are going to be careful who you have living next
31 to you if it's your property and you're living right
32 there. And generally it is for the parents. Most of the
33 ones that are coming through is for elderly parents to
34 move in while they're winding down.

35 CHAIRPERSON KONYK: Winding down. Okay. Sir,
36 do you have anything else you'd like to add?

37 MR. WILSON: Ma'am, I do want -- I'm sorry, and
38 it has to do with the building when you were talking just
39 about that. It is not a building that was built on the
40 structure.

41 CHAIRPERSON KONYK: I understand. It was moved
42 there.

43 MR. WILSON: Yes, ma'am, that's right.

44 CHAIRPERSON KONYK: But it was done with a
45 permit, so I mean it doesn't matter if it was built
46 there, moved there or whatever. It still was there -- it
47 was permitted, and my understanding is the reason that
48 the setback variance is needed is because now it's going
49 to be occupied whereas when it was originally built it
50 met the setback, so we understand that. Thank you.

51 MR. WILSON: It's been occupied since...

52 CHAIRPERSON KONYK: That's not our issue
53 though. That's code enforcement. Okay. Thank you.

54 MR. WILSON: Thank you.

55 CHAIRPERSON KONYK: All right. Applicant, did
56 you have anything else you want to add or does the Board
57 have any questions of the applicant?

58 MR. TURSO: No, I really have nothing more to
59 add other than the fact that it was done prior to Mr.
60 Perez purchasing the property, and that was the main
61 reason he bought the property.

62 CHAIRPERSON KONYK: So that his mother could

1 live there.

2 MR. TURSO: Right. And he didn't realize it
3 was illegal until he got cited by code enforcement.

4 CHAIRPERSON KONYK: Is his mother living there
5 now?

6 MR. TURSO: I think so. I'm not really sure.
7 I really can't say.

8 CHAIRPERSON KONYK: Okay. Is anybody prepared
9 to make a motion on this item? Let me ask one more
10 question. If we were to allow this to go through, could
11 we condition it that it could only be for his mother-in-
12 law or his mother or family member?

13 MR. SEAMAN: Well, you could put conditions
14 however you want.

15 CHAIRPERSON KONYK: I mean is that allowed
16 because we're taking away a right that somebody would
17 have?

18 MR. SEAMAN: The code doesn't say that you have
19 to do that anymore.

20 VICE CHAIRMAN BASEHART: But I think if you
21 felt like there were special circumstances that related
22 to the fact that the property was purchased by the owner
23 with that unit there for the specific purpose and reason
24 to accommodate his mother, I think it would be
25 legitimate, you know, for the Board to grant the variance
26 if we so choose with the condition that once the owner's
27 mother is no longer living there that the variance would
28 expire. You know, the building is legitimately built as
29 a storage building and it meets the setbacks for a
30 storage building, and it had a permit for a storage
31 building. And, you know, that's all that it's I think
32 legally entitled to be now.

33 We know it was -- unless the applicant can come
34 up with some permits to show that the conversion to a
35 dwelling unit was actually done legitimately, you know,
36 what we're dealing here with technically is a storage
37 building that we're considering whether or not we should
38 allow it to be turned into a legitimate dwelling unit in
39 spite of the fact that it doesn't meet the setback
40 requirements that the code requires. In my mind, I can't
41 see the justification for granting the variance under
42 that scenario. Potentially because of the hardship that
43 may be self imposed by the owner in purchasing that with
44 an illegal conversion, not recognizing it was an illegal
45 conversion to a dwelling unit for a specific purpose
46 which could go away in the near future. Then possibly it
47 might be...

48 MR. JACOBS: I'm not terribly persuaded by the
49 fact that Mr. Perez purchased this property with a
50 specific intention because it seems to me that reasonable
51 diligence would have required that Mr. Perez look into
52 the permits for the property he was acquiring.

53 CHAIRPERSON KONYK: You know what, in real life
54 people don't do that, Mr. Jacobs. That's just not...

55 MR. JACOBS: They do if they have a good
56 lawyer.

57 CHAIRPERSON KONYK: Well, yes, they do, and we
58 hope that they all do, don't we? But, you know, most
59 people are not that savvy to look into that. I mean some
60 of us go in and pull all the easements before the
61 property is bought to see what easements are on the piece
62 of land before we buy it, but most people aren't that

1 savvy.

2 MR. JACOBS: Neither are most lawyers.

3 CHAIRPERSON KONYK: That's true. I would agree
4 with that.

5 MR. SADOFF: Madam Chair.

6 CHAIRPERSON KONYK: Yes, sir.

7 MR. SADOFF: This is a kind of convoluted, I'll
8 use the word story for want of a better word. The only
9 thing that I'm asking is with reference to the seven
10 criteria, how does this conform or not conform to it?
11 Basically isn't the seven criteria the law, so to speak,
12 as far as...

13 CHAIRPERSON KONYK: In your backup material you
14 do have the staff recommendations where the staff goes
15 over the seven criteria item by item, and they give their
16 justification for how this item has met the seven
17 criteria. So the staff has come to the conclusion, and
18 the applicant obviously has come to the conclusion that
19 this item has met the seven criteria. If you feel that
20 it hasn't met one of them, you have to identify the one
21 that you feel that it hasn't met and explain to us why
22 you feel it hasn't met it.

23 MR. SADOFF: I don't feel that at all. I just
24 wanted to make sure that I understand what's going on.

25 CHAIRPERSON KONYK: Correct. And in the staff
26 recommendations they do go over the seven criteria item
27 by item, and usually the applicant does that as well. So
28 then anybody who has an objection would have to go back
29 over them but, you know, I think that Mr. Perez bought
30 the property, he intended for his mother to live in this
31 piece of property that was converted to a dwelling. And
32 the setbacks aren't -- the variance request -- we've got
33 a foot and a half variance request on the side, and then
34 the rear setback, and I don't know who this property
35 abuts up to in the rear. Possibly I don't know if it
36 abuts up to anybody's home. Does it?

37 MR. TURSO: Yeah.

38 CHAIRPERSON KONYK: Okay. So what we need is a
39 motion either for approval with maybe an additional
40 condition or a motion for denial, and then we can move
41 forward on it.

42 MS. CARDONE: Can I ask one question?

43 CHAIRPERSON KONYK: Sure.

44 MS. CARDONE: Bob asked you could you place a
45 restriction regarding the use of the property for the
46 mother or the mother-in-law. And I'm wondering how can
47 you do that because if you place that on as a deed
48 restriction, which you would have to, let's say he sold
49 the property, if it wasn't a deed restriction to cloud
50 the title to make sure that with new ownership that
51 wouldn't be there, I'm wondering how you can effectively
52 do this.

53 MS. HELFANT: We're not going to make a
54 condition which would restrict it in that manner because
55 basically you're taking away a right which is allowed.
56 And so I mean if they wanted another family member to
57 move in or anybody else, I mean you're taking away a
58 right.

59 CHAIRPERSON KONYK: But they're asking for a
60 variance too, which we're putting a condition on it
61 because of the variance. We're not just taking it away
62 because -- I mean if they didn't need the variance we

1 wouldn't be asking for an additional condition.
2 VICE CHAIRMAN BASEHART: They don't have a
3 right to have...
4 MS. HELFANT: But the code allows...
5 CHAIRPERSON KONYK: But not on this piece of
6 property.
7 MS. HELFANT: I believe the ULDC allows -- it
8 no longer requires a grandmother or an indigent.
9 CHAIRPERSON KONYK: We understand that. We
10 understand that it no longer requires it, but also does
11 have this other requirement of the setbacks which it's
12 not meeting so in order to allow them to forego the
13 setback requirement. That's where I think we can do it.
14 MR. JACOBS: I would like to ask staff counsel
15 a question.
16 VICE CHAIRMAN BASEHART: Wait a minute. She's
17 going to make a recommendation to us.
18 MS. HELFANT: I would recommend not placing a
19 condition in that manner on the variance.
20 MR. JACOBS: I was going to ask you a question
21 though. Is the variance something that the recipient of
22 the variance can in effect turn in his license, turn in
23 the variance? I mean once you get a variance can you
24 agree to...
25 MS. HELFANT: It runs with the property of the
26 variance.
27 MR. JACOBS: Pardon?
28 MS. HELFANT: It runs with the property of the
29 variance.
30 CHAIRPERSON KONYK: Not with the owner.
31 MS. HELFANT: Right.
32 CHAIRPERSON KONYK: In other words, you're
33 saying can the variance be taken away if he sells the
34 property, is that what you're saying, Mr. Jacobs?
35 MR. JACOBS: Well, or he could agree that upon
36 a certain condition he will...
37 CHAIRPERSON KONYK: Remove the kitchen.
38 MR. JACOBS: Lose the variance.
39 CHAIRPERSON KONYK: Well, that's what we are
40 suggesting, and that's what she suggested that we not do.
41 MR. JACOBS: As I understood the staff
42 attorney, she was talking about us imposing a condition.
43 What I'm suggesting is the possibility of the recipient
44 of the variance voluntarily agreeing to divest himself of
45 the variance if certain condition happens.
46 VICE CHAIRMAN BASEHART: The County Commission
47 does that all the time, you know. They say wouldn't you
48 like to make a voluntary commitment to do this or do
49 that.
50 MR. JACOBS: Well, just a suggestion.
51 MR. TURSO: If I may interject. I don't
52 believe the variance goes to the individual. The
53 variance goes to the property.
54 MR. JACOBS: I understand that.
55 MR. TURSO: So the recipient regardless of you
56 grant the variance Mr. Perez could no way at any time
57 say, okay, I'm going to rescind that variance. The
58 variance goes with the property, not with the recipient.
59 So I don't believe that legally, I'm not a lawyer, but I
60 don't believe that you can put a restriction that Mr.
61 Perez would be granted this variance conditional that
62 only his mother or mother-in-law live in that apartment.

1 CHAIRPERSON KONYK: I disagree with that. I
2 still think we could do that.

3 MR. SEAMAN: I think we have to be careful what
4 we do do because it has to be -- we have to be able to
5 monitor it in some way.

6 CHAIRPERSON KONYK: Well, I think the neighbors
7 might monitor it.

8 VICE CHAIRMAN BASEHART: You've convinced me.

9 CHAIRPERSON KONYK: Well, Alan wants to say
10 something.

11 MR. SEAMAN: I'd like to say something again
12 about when you look at the structure that's there, and
13 it's been there for a number of years, what's the impact
14 that's changing. The building has been there, the
15 building will probably be there in the future. What is
16 the impact that we're looking at? Well, someone is
17 moving into it. How do you measure that impact and if it
18 does contradict one of the seven criteria, and perhaps it
19 would only be where the setback is the most -- the
20 closest to the property line it could be mitigated with
21 landscaping. And one way to deal with the seven criteria
22 that aren't met is through mitigation, and a good way of
23 doing that is with buffers, landscaping, fencing. I just
24 wanted to let you know what I thought about that.

25 VICE CHAIRMAN BASEHART: Part of your argument,
26 you know, is kind of like my philosophy towards speeding.
27 If you don't get caught it's okay.

28 MR. SEAMAN: That's not a good analogy. It
29 depends on the circumstances. Perhaps you were in an
30 emergency to go to the hospital.

31 CHAIRPERSON KONYK: With your mother that lives
32 in the dwelling behind your house.

33 VICE CHAIRMAN BASEHART: Anybody want to make a
34 motion?

35 CHAIRPERSON KONYK: I don't. I can't, thank
36 God.

37 VICE CHAIRMAN BASEHART: Well, if nobody will
38 make a motion, I'm going to make a motion that the
39 variance BA2005-0131 be denied. I don't believe that the
40 criteria are met. Granted, the current owner didn't
41 understand the building which was legitimately permitted
42 as a shed, as a storage building, was there and it had
43 already been converted to a residential unit when he
44 bought it, but I think it's incumbent on a purchaser of
45 property to do their due diligence to determine if these
46 kinds of things are all permitted and legal.

47 The building was built as a storage building.
48 It is a storage building. It could be used as a storage
49 building. If the county attorney and the applicant felt
50 like it was a fair thing to do to put a time limit or an
51 ability to rescind or to expire the variance when the
52 current need for that dwelling unit expires, I would be
53 inclined to support it but the applicant indicated they
54 didn't want to do that. They felt like once he got the
55 variance he had the right to use it forever for a
56 dwelling unit regardless of who lived there.

57 The county attorney office and the staff feel
58 uncomfortable with imposing a condition like that, and I
59 don't believe that the criteria has been met to justify
60 the use of this as a general dwelling unit by whoever
61 forever. So I'm making a motion that this variance be
62 denied.

1 MR. JACOBS: I'll second that.
2 CHAIRPERSON KONYK: We have a motion by Mr.
3 Basehart, a second by Mr. Jacobs.
4 MR. JACOBS: Yes.
5 CHAIRPERSON KONYK: All those in favor?
6 BOARD MEMBERS: Aye.
7 CHAIRPERSON KONYK: Opposed?
8 (No response)
9 CHAIRPERSON KONYK: Motion carries unanimously.
10 The variance is denied.

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17 CHAIRPERSON KONYK: The next item on the agenda
18 is BA2004-00993. Ms. Cardone has to leave, I believe, so
19 we'll let her go ahead and leave.

20 VICE CHAIRMAN BASEHART: We're down to five.
21 CHAIRPERSON KONYK: That's okay. The agent for
22 this item, if you could come forward. Why don't we take
23 a couple minute break? We'll take a couple minute break.

24 (Break)

25 CHAIRPERSON KONYK: The item before us is
26 BA2004-00993. If the staff could read the legal. We're
27 not going to vote on this item. Okay. Come forward, and
28 I don't know how you want to do this because you have an
29 objection or questions you want answered or something,
30 and you want to have an opportunity to speak so do you
31 want to just give us an update of where you're at right
32 now and then he can ask some questions.

33 MS. SIEGEL: Okay. Initially we came in asking
34 for a variance for the front setback. At that time we
35 learned that there was another setback issue, and so
36 staff had asked us to defer the item so that we could
37 address everything at one time rather than come in and do
38 these piece meal requests. So I guess the other variance
39 that would be at issue we initially thought that there
40 was an issue with FDOT, but it ended up that the property
41 at issue was actually with -- the right-of-way issue was
42 with Palm Beach County rather than FDOT.

43 So when we had requested the first deferral, we
44 were trying to meet with FDOT to resolve the issue.
45 Subsequently we've learned that Palm Beach County is
46 actually who we have to meet with so we contacted the
47 county attorney's office. We've been dealing with
48 Attorney Gentry Benjamin, and she requested time to
49 research the issue, and she's notified us early this week
50 that she has had time to perform her title searches and
51 do her research. She's in the process of setting up a
52 meeting with the county FDOT and the owner to try to come
53 to some resolution of this problem so that we can then
54 bring that before you along with the other variance that
55 we are requesting.

56 And I guess with respect to the code
57 enforcement issues that were raised initially we had some
58 code enforcement issues because of the issue that we are
59 dealing with and addressing in the variance, but we've
60 stopped all construction so that currently as far as we
61 know has been resolved because the construction has been
62 stopped, the site has been secured, and we're trying to

1 address these issues diligently.

2 But of course we are at the mercy of the county
3 and the FDOT as far as what their availability is for
4 setting up meetings, and we will of course make ourselves
5 available as soon as they meet. And further with respect
6 to the objection about the timing then perhaps, you know,
7 maybe we should make a request to defer for a longer
8 period of time so that way the objectors can feel more
9 comfortable and don't need to concern themselves with
10 monitoring every 30 days. Maybe we could extend it a
11 little bit. You know, we're willing to try to work with
12 everybody.

13 CHAIRPERSON KONYK: Do you have any indication
14 of how long it until take you to resolve these issues?
15 Do you have an idea? Do you think it's 60 days, 90 days?

16 MS. SIEGEL: I definitely think 30 days is
17 probably too short of a time frame. I would say
18 somewhere probably between 60 and 90. I don't know if
19 staff has an opinion on that one way or another.

20 MR. SEAMAN: You can go up to six months.

21 MS. SIEGEL: Okay. So, you know, would it be
22 permissible then -- let's say we resolve it prior to,
23 could we come back before...

24 MR. SEAMAN: No, you postponed. If you
25 postpone for 30 days you can't -- or for 60 days you
26 can't come in 30 days because people here are being...

27 MS. SIEGEL: Okay. And I don't want to --
28 okay. That's fine. I guess maybe we need to hear what
29 the objections are and then maybe we can better determine
30 what timing would work for everyone.

31 MR. SEAMAN: Can I ask one more question too
32 about the issue of the wall, the retaining wall?

33 MS. SIEGEL: Yes.

34 MR. SEAMAN: You didn't mention anything about
35 that. Can you enlighten staff on what...

36 MS. SIEGEL: The retaining wall actually isn't
37 really relevant to the variance that we're requesting,
38 but we are also working with the county to resolve that
39 issue and...

40 MR. SEAMAN: Did code enforcement go out to
41 look at that?

42 MS. SIEGEL: That I don't know. I can double
43 check on that and get back to you or you can check. I
44 don't know quite honestly, but we are in the process of
45 working with the county to resolve that issue as well.
46 Just there's been, as you know, a whole host of issues,
47 and we just want to make sure that we worked them all out
48 properly and insured that everything is properly
49 permitted so we don't have to come back and ask for a
50 variance.

51 CHAIRPERSON KONYK: Right. Okay.

52 MS. SIEGEL: All right. Thank you.

53 MR. SLUGGETT: Again, for the record, Geoffrey
54 Sluggett, representing Mr. Conrad Mikulec, and Nancy
55 Flaherty, adjacent property owners to the petitioner. I
56 guess basically as I indicated before the concern is how
57 long this process is going to take, and obviously I'm
58 trying to speak narrowly just to the variance that's
59 before you today. But obviously that's just a chip of
60 these overall issues. The issue of the Palm Beach County
61 right-of-way really doesn't have anything to do with this
62 variance because that is a separate variance request

1 because it's a side setback issue.

2 We think there may be also a side setback issue
3 on the south side of this property. Just to give you a
4 little perspective, the petitioner -- this piece of
5 property is 53-1/2 feet wide on its frontage. The
6 structure that's sitting there is a 4,000 square foot
7 dwelling. The reason this property has not been
8 developed in the future is because it's a posted size lot
9 and cannot really be accommodated to really build any
10 type of major structure. You have a major structure
11 here. The applicant is claiming that there was a survey
12 where there was an error with the front setback. If
13 that's the case, well, there were errors on the north
14 side, there were errors on the south side, the issue with
15 the retaining wall or the sea wall behind the property.

16 I heard that there's discussion with the county
17 as well. We're aware that the Department of
18 Environmental Protection is currently looking at it
19 because the sea wall has been relocated and extended
20 further to the east, thus giving the property owner more
21 frontage along the canal. There's numerous issues here,
22 so even if it's a 60-day postponement or up to six months
23 for this one particular variance they're going to have to
24 come back to you. If they do it one at a time trying to
25 chip away at each issue it's going to go on and on and
26 on.

27 My clients are concerned because they're going
28 to have negative impacts associated with this, and
29 they're concerned about what is the financial effect of
30 having to retain my services or somebody else to monitor
31 these issues and appear before you every time this issue
32 comes up, represent them before the code enforcement
33 board. I know that's not your issue. With DEP, DOT.
34 It's just ongoing and ongoing. And we're just looking
35 for some potential relief to try and get this issue going
36 at some point.

37 CHAIRPERSON KONYK: Right.

38 MR. SLUGGETT: And I'll be happy to answer any
39 questions. Thank you.

40 CHAIRPERSON KONYK: Well, I think they're
41 victims of the system as well. They have to meet with
42 Palm Beach County, FDOT. I mean they can't go forward
43 any faster than they can go forward when they have all
44 these other people to deal with. I mean if it was just
45 their issue alone then I understand your point but they
46 don't have that liberty. They can't tell these people.
47 You know as well as any of us know that they can't tell
48 those people what to do.

49 MR. SLUGGETT: Right. And I understand that
50 completely, but I just want the Board to be aware of all
51 of the issues associated with it.

52 CHAIRPERSON KONYK: And since there are so many
53 issues, I would request that maybe the applicant push the
54 postponement as far ahead as possible so that all these
55 issues would be resolved and it would only require you
56 coming back one time, time certain, to hear this issue.
57 I mean we can't control all the other issues that are
58 going on either. So if we said that, you know, 90 or
59 120-day postponement when you would know that in 90 or
60 120 days you would have to reappear to hear this.

61 MR. SLUGGETT: I understand that.

62 CHAIRPERSON KONYK: But I think the objection

1 would be to postpone it for 30 days today and then
2 postponing it for another 30 days the next time, and
3 another -- and on and on and on. I think that's where it
4 gets complicated, expensive and inconvenient for
5 everyone. So I would suggest that possibly the
6 applicant, you know, sharpen her pencil and figure out
7 the most appropriate postponement and have it be the only
8 one.

9 MR. SLUGGETT: And I understand that, and we
10 appreciate the ability but on the other side of the coin
11 too we wouldn't want to push it out so far because
12 obviously my client is going to want to be kept apprised.
13 Staff has done an excellent job, and I want to thank
14 staff for working with us and keeping us apprised.

15 VICE CHAIRMAN BASEHART: The other thing too is
16 obviously your client has concerns, and hopefully you are
17 getting together, the applicant and you and your client
18 can get together by one method or another during this
19 postponement period to try to, you know, hash out and
20 resolve the issues that cause you not to be in favor of
21 the variances.

22 MR. SLUGGETT: Sure. And I can you tell you
23 we've attempted to do that, not necessarily with the
24 representative here today or the law firm representing
25 the owner, but my client has made attempts to try and
26 work with the owner himself, and it's been very difficult
27 for him to do.

28 CHAIRPERSON KONYK: Well, maybe -- I see
29 they're pulling out a business card. Maybe that -- so
30 that's the olive branch that we needed.

31 MR. SLUGGETT: I understand. No personal
32 reflection on her or her firm.

33 CHAIRPERSON KONYK: All right. I appreciate
34 your comments and I would like to hear from the applicant
35 again. I think in fairness -- do the people you're
36 representing want an opportunity to be heard? Then you
37 need to be sworn in.

38 (Whereupon, the speaker was sworn in by Mr.
39 Flaxman.)

40 MR. MIKULEC: My name is Conrad Mikulec. I
41 have no difference with this Board or no problems with
42 you personally. I've never met with you. I just want to
43 tell you how this started, and I'll make it brief. I've
44 been planning to build an office building on this
45 property adjacent to the people who are building this
46 home, and I've come here for several variances of my own.
47 And I was told way back two or three years ago that I
48 could not build -- put an entranceway on U.S. 1.
49 Otherwise, I would have bought the property we're talking
50 about.

51 And what happens, I got a phone call this
52 summer that they were building on the property. When I
53 came down here, I found out he was using my property as
54 his own. And in the process he cluttered the property,
55 built things on my property, and used my property as his
56 own. And when I asked him to remove some of the things,
57 he didn't want to talk to me. He was very arrogant about
58 it. And that's the reason I'm here, and that's the only
59 reason. Thank you.

60 CHAIRPERSON KONYK: So you don't object to the
61 variance?

62 MR. MIKULEC: I object to the variance, yes.

1 CHAIRPERSON KONYK: Okay. All right. Has the
2 stuff been removed from his property yet?
3 MR. MIKULEC: It has not.
4 CHAIRPERSON KONYK: Maybe that's one thing you
5 two could talk about.
6 MS. SIEGEL: And I will check into all of those
7 issues. That's something that I'm not aware of at this
8 time. Now I'm aware of it, but I wasn't aware of it
9 before this. So then I would request, and I'm not sure
10 because you said you weren't going to vote on it today.
11 CHAIRPERSON KONYK: Correct. The only thing
12 we'll vote on is when the postponement is.
13 MS. SIEGEL: Okay.
14 MR. SEAMAN: And if I can interject, you can go
15 up to four more months to July if you wanted to.
16 MS. SIEGEL: Okay.
17 VICE CHAIRMAN BASEHART: Do you think you can
18 get it resolved in 60 or 90?
19 MS. SIEGEL: I think at least 90. 90 days
20 would be sufficient at this point. And in that time, you
21 know, we can work with the neighbors and their counsel to
22 try to make some headway on any other issues.
23 CHAIRPERSON KONYK: Okay. So you're asking now
24 for a 90-day postponement to the June meeting?
25 MS. SIEGEL: Yes.
26 CHAIRPERSON KONYK: Okay. That would be the
27 16th of June. Yes, sir.
28 MR. MIKULEC: I'll be back in New York, and I
29 have a 70th birthday party that week. Okay.
30 CHAIRPERSON KONYK: Not yours?
31 MR. MIKULEC: Yes.
32 CHAIRPERSON KONYK: Oh.
33 MR. MIKULEC: If it could be done the following
34 week or the week before...
35 CHAIRPERSON KONYK: No, no, no. We only meet
36 once a month. We meet on the third Thursday. But Geoff
37 could be here. We already know it. How do you feel
38 about July?
39 MR. SEAMAN: 60 days, would you want to move it
40 up to June?
41 CHAIRPERSON KONYK: That is June. We said
42 June, June 16.
43 MR. SEAMAN: Sorry. I meant May.
44 CHAIRPERSON KONYK: But that's not going to
45 help them if she's not ready. That's the problem. And I
46 don't think she's going to be ready not because of
47 anything through her own fault.
48 MR. SEAMAN: July 21?
49 MS. SIEGEL: I would concern myself that July
50 might be too long as you were saying that you didn't want
51 it to go on for too long. I can check with -- I would
52 just need to check with my client on the July date. Can
53 I do that?
54 CHAIRPERSON KONYK: Well, let me ask this then.
55 Do you want to go with May and then if we have to, we'll
56 postpone it to July again because July is a four-month
57 postponement, and that way possibly you can get all of
58 his objections and concerns resolved by May.
59 MS. SIEGEL: Okay.
60 CHAIRPERSON KONYK: And then at least we don't
61 have to worry about him having to fly back and...
62 MS. SIEGEL: I just didn't want to cause

1 irritation for the Board.

2 CHAIRPERSON KONYK: Will he still be here in
3 May or will he be coming back for this meeting?

4 MR. MIKULEC: I can be ready for May.

5 CHAIRPERSON KONYK: No, no, but I'm asking are
6 you leaving town and then returning or will you still be
7 here?

8 MR. MIKULEC: I'll make a special trip.

9 CHAIRPERSON KONYK: Okay. The reason I'm
10 asking that is if there's any indication that the meeting
11 is not going forward, I will want them to let you know at
12 least a week in advance so you wouldn't travel. So if
13 you're already here...

14 MR. MIKULEC: I won't be.

15 CHAIRPERSON KONYK: Okay. So then you need to
16 make sure as a courtesy that you let them know if you're
17 not going forward in May.

18 MS. SIEGEL: No problem.

19 CHAIRPERSON KONYK: And then I would suggest,
20 this would be my suggestion, that you have plenty of time
21 now to talk to your client, and if you don't go forward
22 in May, plan on going forward in July.

23 MS. SIEGEL: Okay. That's no problem.

24 CHAIRPERSON KONYK: Does that sound fair to
25 everybody?

26 MS. SIEGEL: Yes. May 19?

27 CHAIRPERSON KONYK: So the postponement will be
28 to the time certain May 19 meeting, and you're going to
29 give them plenty of notice.

30 MS. SIEGEL: Yes.

31 CHAIRPERSON KONYK: So if it's not going
32 forward in May maybe Geoff can call you as well. You'll
33 keep in touch with each other. And then that way, I
34 don't know his name, I'm sorry, would not have to travel
35 back. I forgot.

36 MR. MIKULEC: Mikulec, Conrad Mikulec.

37 CHAIRPERSON KONYK: Okay. So he wouldn't have
38 to travel back. We want to let him know in plenty of
39 time so he doesn't make reservations to fly back.

40 MS. SIEGEL: No problem. And we don't want him
41 to miss his birthday party.

42 CHAIRPERSON KONYK: Absolutely not. Absolutely
43 not. All right. So we have it postponed until the May
44 19 meeting. I need a motion.

45 VICE CHAIRMAN BASEHART: So moved.

46 CHAIRPERSON KONYK: Motion by Mr. Basehart.

47 MR. MISROCH: Second.

48 CHAIRPERSON KONYK: Second by Mr. Misroch. All
49 those in favor?

50 BOARD MEMBERS: Aye.

51 CHAIRPERSON KONYK: Okay. Postponed to May 19.

52 MS. SIEGEL: Thank you very much.

53 CHAIRPERSON KONYK: Thank you. Okay. I think
54 we're adjourned.

55 (Whereupon, the meeting was adjourned.)