

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, January 19, 2006
9:15 a.m. - 11:10 a.m.
100 Australian Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Mr. Robert E. Basehart, Vice Chairman

Mr. Stanley Misroch

Mr. William Sadoff

Mr. Joseph Jacobs

Mr. Raymond Puzzitiello

Annie Helfant, Assistant County Attorney

Alan Seaman, Senior Site Planner

David Cuffe, Civil Engineer II, Land Development

C. Larry Roberts, P.E., Senior Registered Engineer

Oscar Gamez, Site Planner I

Timothy Sanford, Site Planner I

Juanita James, Zoning Tech

Annette Stabilito, Secretary

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P R O C E E D I N G S

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VICE-CHAIRMAN BASEHART: I'd like to welcome everybody to the January 19th, 2006, Palm Beach County Board of Adjustment meeting.

To start off, I'm sorry, we were waiting for the camera to be set up, I guess, for the Internet transmission of the meeting.

The first item on the agenda is roll call.

MS. STABILITO: Mr. William Sadoff.

MR. SADOFF: Here.

MS. STABILITO: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. STABILITO: Mr. Bart Cunningham.

(No response.)

MS. STABILITO: Chairperson Ms. Chelle Konyk.

(No response.)

MS. STABILITO: Vice-Chairman Mr. Robert Basehart.

VICE-CHAIRMAN BASEHART: Here.

MS. STABILITO: Ms. Nancy Cardone.

(No response.)

MS. STABILITO: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch.

MR. MISROCH: Here.

MS. STABILITO: Mr. Donald Mathis.

(No response.)

VICE-CHAIRMAN BASEHART: Okay. We have a quorum. Next item on the Agenda is the opening prayer and the Pledge of Allegiance, and Mr. Sadoff has agreed to conduct that.

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

VICE-CHAIRMAN BASEHART: Thank you. If everyone will please rise and face the flag for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

VICE-CHAIRMAN BASEHART: Thank you. We have Proof of Publication and I'm just going to enter this into the record.

Next item is remarks of the Chairman. Just for those of you who are not regular visitors here, I'd like to inform you of how this Board operates its meetings.

The agenda is broken into two components. First is the Consent Agenda.

The Consent Agenda are items that the staff is recommending approval of, and if conditions are proposed, the applicant agrees with those conditions, and where there's been no indication of public opposition to the item.

If the applicant does not agree with the conditions or if there's any member of the public here to speak in opposition to such an item, it

will be pulled from the Consent Agenda and will be moved to the Regular Agenda.

Consent Agenda items are considered or actually voted on en masse. No presentation is required and the staff report becomes the record of the hearing.

We will require that every Petitioner that's on the Consent Agenda come up to the microphone, introduce themselves, and acknowledge their agreement with the conditions of approval.

The Regular Agenda are items where staff is not recommending approval in full, either recommending denial or partial approval, or where the applicant has expressed dissatisfaction or not agreeing with the conditions of approval, or where there's an indication that members of the public are here to speak or have registered legitimate opposition to the item.

And those items will be introduced by the staff. Staff will provide a staff report. Petitioner will be required to make a full presentation addressing the seven criteria in the Code for the approval of variances. The public will be allowed to provide their input and then we will vote.

One other thing I would like to bring up, the Board of Adjustment has a very narrow scope. We're here to consider specific requests for relief from provisions of the ULDC. Oftentimes, there are people here that oppose whatever construction an applicant is proposing, but not because of the variances used but more as a zoning matter.

Anybody that speaks in opposition to any item -- actually, the only thing that's relevant are arguments for or against the specific request that's being made, not general zoning dissatisfaction or just because you don't like what someone is proposing to build.

And because we have a large agenda, if people get off track and out of sync with what the issue is, we will let you know.

Okay. Other than that, I don't have any comments.

Does any other member of the Board have any issues or comments you'd like to make?

(No response.)

VICE-CHAIRMAN BASEHART: Seeing none, we'll move on to the approval of the Minutes. We've all received a copy of the December 15th, 2005, meeting.

I know everyone has read them thoroughly. And if anybody has any changes you feel need to be made to the Minutes, then bring that up. Otherwise, we're ready for a motion to adopt the Minutes.

MR. JACOBS: So moved, I make the motion.

MR. MISROCH: Second.

VICE-CHAIRMAN BASEHART: I think we have a motion by Mr. Jacobs and a second by Mr. Misroch. All those in favor?

BOARD: Aye.

VICE-CHAIRMAN BASEHART: Opposed?

(No response)

VICE-CHAIRMAN BASEHART: Okay. The Minutes are adopted.

Next item on the Agenda is remarks of the Zoning Director. Alan?

MR. SEAMAN: Yes. This morning we do have a landmark event taking place. Mr. David Cuffe who is with our Land Development section of the County is retiring and we wanted to give him this certificate of appreciation for all the dedication he's had to the Zoning Board of Adjustment and to Palm Beach County.

So, David, here's a Certificate of our Appreciation and congratulations.

MR. CUFFE: Now can I shut my mic off?

MR. SEAMAN: And this might be the appropriate time to introduce --

MR. ROBERTS: Larry Roberts.

MR. SEAMAN: -- Larry Roberts, who will be sitting in for David in the future.

VICE-CHAIRMAN BASEHART: Larry, you've got a tough act to follow.

MR. ROBERTS: I really do.

VICE-CHAIRMAN BASEHART: David, we've known each other for close to 30 years, I think, and you've always provided as far as I'm concerned tremendous support for this Board and we're going to miss your knowledge, your historical knowledge and your technical knowledge, and the manner that you approach the work that you provide to us.

But on the other hand, I envy your being able to retire and wish you well.

MR. CUFFE: Thank you.

VICE-CHAIRMAN BASEHART: Next item on the Agenda is -- are there any other matters?

MR. SEAMAN: That's all.

VICE-CHAIRMAN BASEHART: Okay. Approval of the Agenda. Are there any changes to the Agenda?

MR. SEAMAN: We have two changes, Petition 2005-1706 has been postponed by right for 30 days. That will be heard on February 16th.

VICE-CHAIRMAN BASEHART: That's like on page 18 or something? And that's a matter of right?

MR. SEAMAN: It's by right, so there's no vote needed.

VICE-CHAIRMAN BASEHART: Is there anybody here that came to discuss BOA Petition 2005-1706?

(No response)

VICE-CHAIRMAN BASEHART: Okay, good.

MR. SEAMAN: We have one more. Petition 2005-1418. They're requesting -- actually, staff is requesting --

MR. PUZZITIELLO: You mean, 1448, right?

MR. SEAMAN: I'm sorry, yes. 2005-1448 and this is a postponement for 30 days and this is by vote.

VICE-CHAIRMAN BASEHART: The reason for -- you say staff is requesting the postponement?

MR. SEAMAN: No, just --

VICE-CHAIRMAN BASEHART: Okay. The applicant is?

MR. SEAMAN: The applicant is.

VICE-CHAIRMAN BASEHART: Okay. Is there any member of the public here that came for this matter?

Okay. Is the applicant here? Could you give us a little bit of information on the reason for your postponement?

MR. BROPHY: Sure. Jeff Brophy for the record with Land Design South.

We actually postponed -- an item came up this morning I guess with the Engineering Department. It wasn't anything with the public and we're taking the 30 days to work with engineering to get through that issue.

But since there is a member of the public here I'll speak to him right now. Hopefully, we can address this issue before the next hearing.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board -- okay, this we need a motion for.

MR. PUZZITIELLO: Motion to postpone for 30 days.

MR. JACOBS: Second.

VICE-CHAIRMAN BASEHART: Okay. We have a motion and a second.

All those in favor, indicate by saying aye?

BOARD: Aye.

VICE-CHAIRMAN BASEHART: Opposed?

(No response)

VICE-CHAIRMAN BASEHART: Okay. The matter carries unanimously. And that motion was made by Mr. Puzzitiello, I think, and seconded by Mr. Jacobs for the record.

Is that it, Alan?

MR. SEAMAN: That's all.

VICE-CHAIRMAN BASEHART: Okay. The way we're going to handle the Consent Agenda is I'm going to introduce each item.

Before we do that, if the clerk would swear any member of the public that wishes to speak, applicants or other members of the public, everyone that would like to speak on any item on the agenda, please rise and raise your right hand.

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

VICE-CHAIRMAN BASEHART: Okay. When your item comes up and you approach the microphone, please indicate your name, your address, and indicate that you've been sworn in. Okay.

VICE-CHAIRMAN BASEHART: Postponed items on the Agenda, BOA2005-1683, that's by right?

MR. SEAMAN: Yes, it's by right and I might mention to the Board that this is an unusual application. We have not been able to contact the applicant; we have tried various ways through phone calls and even through Code Enforcement.

And our problem is that the application is not really complete and we're just suggesting -- staff is asking for 30-day postponement in hopes that this individual will get in touch with us. If not, we probably will recommend denial or withdrawal next time.

VICE-CHAIRMAN BASEHART: Okay. The owner isn't here or the applicant, is he? Okay. This item is postponed for 30 days.

VICE-CHAIRMAN BASEHART: Now the Consent Agenda.

Again, we'll introduce each item individually and ask the applicant to come up and acknowledge number one that you're here and number two, that you agree with the conditions of approval, and at that time we'll ask if there's any member of the public here to speak in opposition. If there is, the item will have to be pulled.

Okay. The first item is BOA2005-01304, Edward Patrick Blunck. Is the applicant here?

Staff is recommending approval of your application with two conditions. State your name.

MR. BLUNCK: Edward Blunck.

VICE-CHAIRMAN BASEHART: Okay. Do you agree with those conditions of approval?

MR. BLUNCK: Yes, we agree.

VICE-CHAIRMAN BASEHART: Okay. Is there any member of the public here to speak in opposition to this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, are there any letters?

MR. SEAMAN: There are no letters.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board feel this needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay. You remain on the Consent Agenda.

BOARD OF ADJUSTMENT CONDITIONS

1. By 1/19/2007, the applicant shall provide the Building Division with a copy of the Board of

Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. By **1/19/2007** or prior to DRO certification, the applicant shall amend the approved site plan to reflect the variance approval pursuant to BA-2005-1304. (DRO: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item is BA2005-01447, Land Design South.

MR. KURBANSADE: Good morning. Mark Kurbansade from Land Design South representing the applicant.

VICE-CHAIRMAN BASEHART: Okay. The staff is recommending approval of this application with one condition. Do you agree with it?

MR. KURBANSADE: Yes, sir.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Any letters?

MR. SEAMAN: There are a total of eight letters; one approves, seven disapprove but my understanding is that the agent --

MR. KURBANSADE: We went and met with the homeowners association last week and sat down and talked to their Board and met with members of the community as well.

VICE-CHAIRMAN BASEHART: That's why nobody's here?

MR. KURBANSADE: Yes.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, this item will stay on consent as well.

BOARD OF ADJUSTMENT CONDITIONS

1. By **1/19/07**, the applicant shall amend the Approved Site Plan petition (83-057) through the DRO section to reflect the variance approval pursuant to BA-2005-1447.

VICE-CHAIRMAN BASEHART: Okay. The next item was postponed for 30 days.

The item after that is BA2005-01449, Christopher Burch. Is the applicant here?

MR. BURCH: Yes.

VICE-CHAIRMAN BASEHART: As you approach the microphone, staff is recommending approval of your application with three conditions.

Do you understand and agree with them?

MR. BURCH: Yes, I do.

VICE-CHAIRMAN BASEHART: Your name?

MR. BURCH: Christopher Burch.

VICE-CHAIRMAN BASEHART: And you've been sworn in?

MR. BURCH: Yes.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak in opposition to this item? Okay. There are members of the public.

Your opposition is specifically related to the variance? Okay. Then we're going to have to pull this item. It will become the first item on the Regular Agenda.

MR. BURCH: Okay.

VICE-CHAIRMAN BASEHART: Next item on the Agenda is BA2005-0452 [sic], Beril Krueger. I'm sorry, 01452.

Staff is recommending approval of your item with three conditions.

MR. SEAMAN: We have corrected conditions.

VICE-CHAIRMAN BASEHART: You have corrected conditions, okay. You want to --

MR. SEAMAN: And I'm not sure that Beril or the agent has heard these conditions, but I'll read the two that are different.

We originally had three conditions. The third one I'll read how it's been changed. It should read:

"By May 19, 2006, the applicant shall obtain a building permit to install an opaque fence six feet overall along the 80 feet of the south garage wall between the property line and the garage structure."

My understanding is that the applicant has actually already done that. But I wanted to clarify that condition three.

The fourth condition we are suggesting based on the neighbors, this condition will be number four, and it will read:

"Prior to the Certificate of Occupancy, the applicant shall install a landscape screen

consisting of eight areca palms six to eight feet overall planted four feet on center. The landscaping shall be placed alongside the proposed garage facing Lawrence Road."

MR. KRUEGER: Do they have to be areca palms?

MR. SEAMAN: They have to be areca palms.

MR. KRUEGER: Because we bought royal palms already.

MR. SEAMAN: Well, I believe you'll find from our landscape inspectors, as well as my background is landscape architecture, that royal palms are not going to do a real effective screening job. They're mostly large ornamental trees.

So we would respectfully recommend that you use the eight areca palms.

MR. KRUEGER: We accept it.

VICE-CHAIRMAN BASEHART: So you accept the conditions as amended?

MR. KRUEGER: Yes.

VICE-CHAIRMAN BASEHART: And you're Beril Krueger for the record?

MR. KRUEGER: Beril Krueger.

VICE-CHAIRMAN BASEHART: Last time you checked.

MR. KRUEGER: Yeah, we've only known each other a couple of years.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak in opposition of this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, any letters?

MR. SEAMAN: There are two letters of disapproval.

VICE-CHAIRMAN BASEHART: Okay, and there are people here to oppose?

MR. FORD: Approval with conditions.

VICE-CHAIRMAN BASEHART: So you support the application with the conditions?

MR. FORD: Yes, with the conditions. I would like to speak.

VICE-CHAIRMAN BASEHART: Well, if it's very short we'll let you come up and do that. If not, we're going to have to pull this item and have a full hearing.

MR. FORD: I'll make it short.

VICE-CHAIRMAN BASEHART: Okay. Give us your name for the record.

MR. FORD: My name is Jim Ford. I live at 3927 89th Road South and I've been sworn in.

I approve Mr. Smith's variance. He's done a nice job developing his property. I don't want to stop him from developing his property. I welcome him to have a garage. The landscaping was one of the conditions that I requested. The fence is welcomed as a buffering condition. I think that would be well received by the neighborhood.

As we do live on a private road, the Building Department won't take any drainage consideration because it is a private road and not a public road, so I think a drainage -- a condition

on drainage should be considered.

Also, because the neighborhood doesn't want a warehouse developed in the neighborhood, I would ask for a -- the building is to be defined as one-story by a 10 foot maximum wall height, and I think this would give Mr. Smith plenty of garage. But I understand the scope of this Board meeting is limited, so I just wanted to throw out my suggestions.

But I welcome him getting his garage and I'm glad this is going to be resolved and I look forward to him moving forward with his project.

VICE-CHAIRMAN BASEHART: Okay. Thank you.

With that information, does anybody feel further discussion is necessary or modification? Anybody feel this should be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay. So with those comments acknowledged, we will leave this on the Consent Agenda.

MR. SEAMAN: Can I make --

VICE-CHAIRMAN BASEHART: Yes.

MR. SEAMAN: Just for clarification, he mentioned a couple of things that he'd like to see as conditions.

As far as the drainage issue, that's not really something that we --

VICE-CHAIRMAN BASEHART: That's not related to the Board. We can't consider that.

MR. SEAMAN: And the other request about reducing, I think, the height and -- there were some discussions about architectural. Those things aren't really relevant to any -- by right, you're allowed to build 35 feet high. So we didn't put those conditions in here because we didn't feel they were relevant to the variance.

VICE-CHAIRMAN BASEHART: Okay. But they've been put on the record and Mr. Krueger, I'm sure, will discuss them with his client and hopefully can be accommodated, and he's nodding yes for the record.

So we'll leave this on Consent Agenda.

BOARD OF ADJUSTMENT CONDITIONS

1. By **01/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (**1/19/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

3. By **5/19/2006**, the applicant shall obtain a building permit to install an opaque fence six feet overall along the 80 feet of the south garage wall between the property line and the garage

structure." (BUILDING: DATE: ZONING)

4. Prior to the Certificate of Occupancy, the applicant shall install a landscape screen consisting of eight areca palms six to eight feet overall planted four feet on center. The landscaping shall be placed alongside the proposed garage facing Lawrence Road.

VICE-CHAIRMAN BASEHART: Next item BA2005-01564, Ellie Halperin for Jimmy K. Boyd. Ms. Halperin, you've been sworn in?

MS. HALPERIN: Yes.

VICE-CHAIRMAN BASEHART: Staff is recommending approval of your item with no conditions. You sure you don't want any conditions?

MS. HALPERIN: I'll pass.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak in opposition to this?

UNIDENTIFIED SPEAKER: Yes.

VICE-CHAIRMAN BASEHART: Is it related specifically to the variance that's being requested?

UNIDENTIFIED SPEAKER: Yes.

VICE-CHAIRMAN BASEHART: Okay. We're going to have to pull this item.

VICE-CHAIRMAN BASEHART: Next item on the Agenda is BA2005-01567, Land Design South, for Good Shepherd Lutheran Church.

MR. KURBANSADE: Good morning, Mark Kurbansade for Land Design South.

VICE-CHAIRMAN BASEHART: And there are three conditions recommended. Do you agree with those conditions?

MR. KURBANSADE: Yes, sir.

MR. SEAMAN: We have corrections.

VICE-CHAIRMAN BASEHART: Okay.

MR. SEAMAN: If you'll turn to page 37 of

the report, which is where the development order and the conditions are listed.

The development order reads that the variance shall lapse on 1/19/07. It should read 1/19/08, two years from the approval date.

And under the conditions, which we have three, the third one should read, the second to last line should read, "BA2005-1567", not 1302. They're just typos.

VICE-CHAIRMAN BASEHART: All right. Any member of the public here to speak in opposition to this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, any letters?

MR. SEAMAN: There are none. I'm sorry. There's one disapproval, but no reason.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: It'll stay on Consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By **1/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (**1/19/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

3. By **1/19/2007**, the applicant shall amend the Approved Site Plan petition (73-085) through the DRO section to reflect the variance approval pursuant to BA2005-01567. (DRO: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item on the Agenda is BA2005-01671, Akerman Senterfitt.

MR. LYNNE: Good morning. Jeffrey Lynne from Akerman Senterfitt. I have been sworn at and in.

VICE-CHAIRMAN BASEHART: Okay. And you agree with the conditions, the two conditions recommended by staff?

MR. LYNNE: Yes, Mr. Chairman.
VICE-CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?
(No response)
VICE-CHAIRMAN BASEHART: She's just scratching; she didn't raise her hand. All right. Any letters?
MR. SEAMAN: There are two in support.
VICE-CHAIRMAN BASEHART: Any member of the Board feel this item needs to be pulled?
(No response)
VICE-CHAIRMAN BASEHART: It will stay on consent.
MR. LYNNE: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By **1/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)
2. Prior to the Development Order expiration (**1/19/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item is BA2005-01686, Ken-Cor Builders. Is the applicant here?

Staff is recommending approval with three conditions. Give us your name and let us know if you agree with them.

MR. CROY: My name is Ken Croy and it's Ken-Lor Builders. My wife would slap me if I didn't correct that for the record.

Yes, I've been sworn in and yes, we agree to the conditions.

VICE-CHAIRMAN BASEHART: Okay. Note a typo on the Agenda, Ken-Lor. Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters?

MR. SEAMAN: Two in support.

VICE-CHAIRMAN BASEHART: Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: It will stay on Consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By **07/19/2006**, the approved site plan for Golf Colony Parcel "B" (P-80-212), shall be amended to reflect the variance approval pursuant to BA-2005-1686. (DRO: DATE: ZONING)

2. By **01/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

3. Prior to the Development Order expiration (**01/19/2008**), the projects shall have received and passed the first building inspections. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item, BA2005-01690, Denise and Brad Fishel. Have you been sworn in?

MR. FISHEL: Yes.

VICE-CHAIRMAN BASEHART: Staff is recommending approval of this item with two conditions. Do you agree with them?

MR. FISHEL: Yes, sir.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters?

MR. SEAMAN: We have four in approval.

VICE-CHAIRMAN BASEHART: Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, it will remain on Consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By **1/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE:

ZONING)

2. Prior to the Development Order expiration (1/19/2007), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item BA2005-01694, Daniel and Deborah Floyd.

MR. FLOYD: Dan Floyd, Patina Drive, Boynton Beach.

VICE-CHAIRMAN BASEHART: And you've been sworn in?

MR. FLOYD: I have.

VICE-CHAIRMAN BASEHART: The staff is recommending approval of your application with three conditions. You understand and agree with them?

MR. FLOYD: I do.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters?

MR. SEAMAN: There are eight in approval.

VICE-CHAIRMAN BASEHART: Okay. Anybody feel this needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: It will stay on consent.

BOARD OF ADJUSTMENT CONDITIONS

1. By 3/19/2006, the approved site plan for Rainbow Lakes Parcel B (P-79-177), shall be amended to reflect the variance approval pursuant to BA-2005-1694. (DRO: DATE: ZONING)

2. By 01/19/2007, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application for the one-story addition. (BUILDING: DATE: ZONING)

3. Prior to the Development Order expiration (01/19/2008), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item, BA2005-01697, Harris and Gloria J. Cherkis.

MRS. CHERKIS: Gloria Cherkis, 11530 Cherrybrook Lane, Boynton Beach, Florida.

VICE-CHAIRMAN BASEHART: Have you been sworn in?

MRS. CHERKIS: Yes.

VICE-CHAIRMAN BASEHART: Okay.

MR. CHERKIS: Harris Cherkis, 11530 Cherrybrook Lane, Boynton Beach, Florida.

VICE-CHAIRMAN BASEHART: Okay. Staff is recommending approval of your variance with three conditions. You understand them and you agree with them?

MR. CHERKIS: Yes.

MRS. CHERKIS: Yes.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters?

MR. SEAMAN: There are none.

VICE-CHAIRMAN BASEHART: Any member of the Board feel this needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay. This item will stay on consent, as well.

MRS. CHERKIS: Thank you.

VICE-CHAIRMAN BASEHART: Just for those of you on the Consent Agenda, we're not giving the letters at this meeting anymore. Are we or aren't we?

MR. SEAMAN: I'm sorry, Bob?

VICE-CHAIRMAN BASEHART: When we conclude the Consent Agenda, are the letters ready?

MR. SEAMAN: No, that will never happen, be ready beforehand. Our system now requires them to be created after we finish the meeting, so we have to input things into EPZB, so the letters will be ready, Annette, by Friday for pick-up or they'll be sent by Friday.

VICE-CHAIRMAN BASEHART: Okay. Just so everybody knows.

BOARD OF ADJUSTMENT CONDITIONS

1. By **03/19/2006**, the approved site plan for Jones PUD, POD C (P-95-19), shall be amended to reflect the variance approval pursuant BA-2005-1697. (DRO: DATE: ZONING)

2. By **01/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

3. Prior to the Development Order expiration (**01/19/2008**), the project shall have received and

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

VICE-CHAIRMAN BASEHART: Next item, BA2005-
01699, JPR Planning Services.

MS. LINDSEY: Jean Lindsey, JPR Planning
Services.

VICE-CHAIRMAN BASEHART: You've been sworn
in?

MS. LINDSEY: Yes.

VICE-CHAIRMAN BASEHART: Staff is
recommending approval of your application with one
condition. Do you understand and agree with that?

MS. LINDSEY: Yes, we do.

VICE-CHAIRMAN BASEHART: Any member of the
public -- there is a member of the public.

Are you here to speak specifically to the
variance that's being requested or more generally?

UNIDENTIFIED SPEAKER: Well, it's not
general, it's more about the whole project being
necessary.

VICE-CHAIRMAN BASEHART: You understand what
the variance requests are?

It's to eliminate a -- first of all, to
exceed the maximum height and to use non-natural
materials to eliminate one parking space, to have a
two-foot berm, to allow a hedge outside the fence.

Those are the variances requested. Do you have
specific opposition to those issues?

UNIDENTIFIED SPEAKER: Yes.

VICE-CHAIRMAN BASEHART: Okay. Then we'll
have to pull this item.

Remember, when this comes up any argument
against the project for general purposes or zoning
issues is not relevant to this Board and won't be
heard.

It's got to be -- your discussion and your
opposition has to be specifically related to the
variance request being made. You understand that?

UNIDENTIFIED SPEAKER: Yes.

VICE-CHAIRMAN BASEHART: Okay.

VICE-CHAIRMAN BASEHART: BA2005-01702, Christine Montas.

MS. MONTAS: Good morning. Christine Montas.

VICE-CHAIRMAN BASEHART: You've been sworn in?

MS. MONTAS: Yes.

VICE-CHAIRMAN BASEHART: Staff is recommending approval of your application with two conditions.

Are you familiar with them and do you agree with them?

MS. MONTAS: Yes.

VICE-CHAIRMAN BASEHART: Is there any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters, Alan?

MR. SEAMAN: There are none.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: It will remain on consent then.

BOARD OF ADJUSTMENT CONDITIONS

1. By **01/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (**01/19/2008**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: BA2005-01703, Greg Mambourg.

MR. MAMBOURG: Greg Mambourg.

VICE-CHAIRMAN BASEHART: You've been sworn in?

MR. MAMBOURG: Yes.

VICE-CHAIRMAN BASEHART: Okay. Staff is recommending approval of your application with two conditions. Do you agree with those?

MR. MAMBOURG: Yes.

VICE-CHAIRMAN BASEHART: Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, letters?

MR. SEAMAN: We have eight letters that are in support.

VICE-CHAIRMAN BASEHART: Okay. Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, this item will remain on consent as well.

BOARD OF ADJUSTMENT CONDITIONS

1. By **5/19/2006**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (**1/19/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

VICE-CHAIRMAN BASEHART: BA2005-01704, Kilday & Associates.

MS. WALTER: Good morning, Collene Walter with Kilday & Associates and I have been sworn in.

VICE-CHAIRMAN BASEHART: Staff is recommending approval of your application with one condition.

MR. SEAMAN: If I may interject? We have an additional condition.

Actually, we have an additional condition for both this petition and the following one. It's the same condition and I'll read it both times, of course.

But on page 83 of your staff report we have the Development Order and then we have one condition. Then the second condition staff would like to include says:

"Prior to DRO approval, the applicant shall have submitted a landscape plan of the site for review and approval by the landscape section."

MS. WALTER: For the first item on the Agenda, which is the Palms West Industrial Park,

which is a development order that is being amended to remove a parcel, a portion of that is already developed and has landscaping in place.

So would it be for the future development areas you'd need to see a landscape plan?

The second one is a new project. That's no problem submitting a landscape plan.

MR. SEAMAN: I think that makes sense.

MS. WALTER: Okay. So it would be for the affected area?

MR. SEAMAN: The affected area only.

MS. WALTER: So that would be for the first petition, 01704?

MR. SEAMAN: Yes. So we should say, "Prior to DRO approval, the applicant shall have submitted a landscape plan of the affected..." --

MS. WALTER: Of the future development area.

MR. SEAMAN: "...of the future affected development areas for review and approval by the landscape section."

VICE-CHAIRMAN BASEHART: Can you agree with that?

MS. WALTER: Yes, as long as it's for the future development areas, that's fine.

VICE-CHAIRMAN BASEHART: Okay. So on that first item is there any member of the public here to speak in opposition?

(No response)

VICE-CHAIRMAN BASEHART: Any letters?

MR. SEAMAN: There are none.

VICE-CHAIRMAN BASEHART: Any Board member have any objection to leaving this on consent with the amended conditions?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, it will remain on consent then.

BOARD OF ADJUSTMENT CONDITIONS

1. Prior to DRO approval, the applicant shall have the approved variances denoted on the approved site plan, pursuant to BA-2005-1704. (DRO: EVENT: ZONING)

2. Prior to DRO approval, the applicant shall have submitted a landscape plan of the future affected development areas for review and approval by the landscape section.

VICE-CHAIRMAN BASEHART: Next item, BA2005-01705, Kilday & Associates again.

MS. WALTER: Yes, good morning, Collene Walter with Kilday & Associates, and I have been sworn in.

VICE-CHAIRMAN BASEHART: Okay. You agree with the additional condition for this?

MS. WALTER: Yes. As part of the zoning submission, we have an alternative landscape plan that was submitted so that will be going automatically to the Development Review Officer for final DRO, so that condition is no problem.

MR. SEAMAN: So if I could just read it?

VICE-CHAIRMAN BASEHART: Okay. Read it into the record.

MR. SEAMAN: For this petition number which is --

VICE-CHAIRMAN BASEHART: 01705.

MR. SEAMAN: Thank you. 01705. We have two conditions. The first one is already in the report.

The second one will read, "Prior to DRO approval, the applicant shall have submitted a landscape plan of the site for review and approval by the landscape section."

VICE-CHAIRMAN BASEHART: Again, any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Any letters?

MR. SEAMAN: No, no letters.

VICE-CHAIRMAN BASEHART: Any Board member feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, this will remain on the Consent Agenda with the amended conditions.

MS. WALTER: Thank you very much.

BOARD OF ADJUSTMENT CONDITIONS

1. Prior to DRO Approval, the applicant shall denote the approved variances on the site plan per BA-2005-1705 (DRO: EVENT: ZONING).

2. Prior to DRO approval, the applicant shall have submitted a landscape plan of the site for review and approval by the landscape section.

VICE-CHAIRMAN BASEHART: The next item has already been postponed for 30 days.

The item after that and we're almost to the bottom, BA2005-01708, Julian Bryan, agent for Centerline Homes.

MR. BRYAN: Good morning, Mr. Chairman. Julian Bryan representing the project. We agree with the condition. We have been sworn in.

I would, however, if it's appropriate like to ask one question about that condition.

VICE-CHAIRMAN BASEHART: Sure.

MR. BRYAN: A point of clarification with staff. It says that we would seek an administrative amendment of the site plan.

I believe actually the portion of the plan that would need to be amended would be the regulating plan because that's where the sign, the entry sign is shown.

If that's in fact the case, then we're fine with the condition.

MR. SEAMAN: Well, I clarified the condition that the plan that is on file --

MR. BRYAN: The plan in general --

MR. SEAMAN: The certified, the current plan that's approved by the County.

MR. BRYAN: I understand.

MR. SEAMAN: That's what needs to be amended to show that you've been granted this variance, should you be granted this variance.

VICE-CHAIRMAN BASEHART: All right, but the way I understand it, the sign -- well, it's a sign on a wall, basically --

MR. SEAMAN: Yes.

VICE-CHAIRMAN BASEHART: It's shown on the plan, on the site plan, but the details of it are shown on the regulating plan and what you're saying is the only thing that really needs to be changed is the regulating plan?

MR. BRYAN: Exactly. That would reflect the height of the sign. The plan view on the site plan does not reflect that information.

VICE-CHAIRMAN BASEHART: Right.

MR. SEAMAN: Okay. I just want to be sure that the plan that's being compared by the permit folks --

MR. BRYAN: Building department, yes.

MR. SEAMAN: That we're looking at an approved plan. That plan needs to have the correct dimensions and the correct elevations on it.

MR. BRYAN: I understand. That's what we will do.

VICE-CHAIRMAN BASEHART: And it's a set. I mean, it's the site plan, the regulating plan and the conditions sheet are all together. So, okay.

MR. BRYAN: Thank you, Mr. Chairman.

VICE-CHAIRMAN BASEHART: With that, so that's all understood?

MR. BRYAN: Mm-hmm.

VICE-CHAIRMAN BASEHART: Okay. Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, any

letters?

MR. SEAMAN: There are none.

VICE-CHAIRMAN BASEHART: Any member of the Board feel this items needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay, this will stay on the Consent Agenda.

BOARD OF ADJUSTMENT CONDITIONS

1. By **07/19/2006**, the approved site plan for Countryside Meadows PUD (P-03-035), shall be amended to reflect the variance approval pursuant to BA-2005-1708. (DRO: DATE: ZONING)

VICE-CHAIRMAN BASEHART: Next item is BA2005-01738, Land Design South, for TBI/Palm Beach Limited Partnership.

MR. TERRY: Brian Terry for Land Design South. I've been sworn in.

VICE-CHAIRMAN BASEHART: Staff is recommending approval subject to four conditions.

MR. TERRY: We agree with those.

VICE-CHAIRMAN BASEHART: You agree with them.

Any member of the public here to speak on this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, any letters?

MR. SEAMAN: None.

VICE-CHAIRMAN BASEHART: Any member of the Board feel this item needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay. It will remain on consent as well.

BOARD OF ADJUSTMENT CONDITIONS

1. By **3/19/2006**, the approved site plan for Delray Training Center PUD, POD J (P-87-007 D), shall be amended to reflect the variance approval pursuant BA-2005-1738. (DRO: DATE: ZONING)

2. By **1/19/2007**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site

plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

3. Prior to the Development Order expiration (01/19/2008), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

4. The approved setback variance is only for the 3 feet balcony projection on the second floor. (ONGOING: ZONING: ZONING)

VICE-CHAIRMAN BASEHART: Next item is BATE2005-01780, South East Architect Services, agent.

MR. KRAMER: Lawrence Kramer for South East Architect Services. I have been sworn in and I do concur with the comments.

VICE-CHAIRMAN BASEHART: And the three conditions?

MR. KRAMER: And the three conditions.

VICE-CHAIRMAN BASEHART: Okay. Time extensions are not advertised, but is anybody here to speak on this item?

(No response)

Seeing none and there wouldn't be any letters, any member of the Board feel this needs to be pulled?

(No response)

VICE-CHAIRMAN BASEHART: Okay. It will stay on consent.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on 12/18/2005, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

The development order for this particular variance shall lapse on 12/18/2006, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By December 18, 2005, the applicant shall

obtain a building permit for the proposed Office, Business or professional buildings in order to vest the variance approved pursuant to BA 2003-673. (DATE: MONITORING-BLDG PERMIT)

IS HEREBY AMENDED TO READ:

1. By **December 18, 2006**, the applicant shall obtain a building permit for the proposed Office, Business or professional buildings in order to vest the variance approved pursuant to BA 2003-673. (DATE: MONITORING-BLDG PERMIT)

2. By May 20, 2004, or prior to submittal of a building permit application, the applicant shall address all comments received from the survey section. (DATE: MONITORING: BUILDING PERMIT) (**COMPLETE**)

3. All plant material, required by the ULDC shall be installed within the eastern 15 ft. buffer prior to final/Certificate of Occupancy.

VICE-CHAIRMAN BASEHART: Last item on the agenda, BATE2005-01819, Juran Consulting, agent for Athena Vista, Ltd.

MS. JURAN: Hi, Kim Juran for Athena Vista, Ltd. I have been sworn in and I agree with the condition.

VICE-CHAIRMAN BASEHART: Any changes to the condition?

MR. SEAMAN: No.

VICE-CHAIRMAN BASEHART: No? Okay. Any member of the public here to speak on this item? (No response)

VICE-CHAIRMAN BASEHART: Any letters?

MR. SEAMAN: No, it's a BATE.

VICE-CHAIRMAN BASEHART: That's right. Any member of the Board feel this needs to be pulled? (No response)

VICE-CHAIRMAN BASEHART: Seeing none, this will stay on consent, also.

BOARD OF ADJUSTMENT CONDITIONS

By **12/20/2005**, the applicant shall amend the approved site plan petition (84-130 Exhibit 138-Parcel 21) through the DRO section to reflect the variance approval pursuant to BA 2005-1314. (DRO: DATE: ZONING)

IS HEREBY AMENDED TO READ:

By **12/20/2006**, the applicant shall amend the approved site plan petition (84-130 Exhibit 138-Parcel 21) through the DRO section to reflect the variance approval pursuant to BA 2005-1314. (DRO: DATE: ZONING)

VICE-CHAIRMAN BASEHART: To summarize, Consent Agenda BA2005-01304; BA2005-01447; BA2005-01452; BA2005-01567; BA2005-01671; BA2005-01686; BA2005-01690; BA2005-01694; BA2005-01697; BA2005-01702; BA2005-01703; BA2005-01704; BA2005-01705; BA2005-01708; BA2005-01738; BATE2005-01780; BATE2005-01819 remain on the Consent Agenda.

All other items have been pulled. They will be on the Regular Agenda in the order that they were pulled from the Consent Agenda. So I think we're ready for a motion.

MR. JACOBS: Mr. Chairman, I make a motion that we approve the various items that you've just enumerated and that the staff report as amended be part of the record.

MR. MISROCH: Second.

VICE-CHAIRMAN BASEHART: We have a motion by Mr. Jacobs, second by Mr. Misroch. All those in favor, indicate by saying aye?

BOARD: Aye

VICE-CHAIRMAN BASEHART: Opposed, no.

(No response)

VICE-CHAIRMAN BASEHART: Okay. So everybody, we're going to take about a two minute break to allow everybody who was on the Consent Agenda to file out of the room.

(Whereupon, a short recess was had.)

VICE-CHAIRMAN BASEHART: I think we're ready to reconvene.

There will be three items on the Regular Agenda. In order, they will be BA2005-01449,

Christopher Burch.

The second one will be BA2005-01564, Ellie Halperin.

And the third one will be BA2005-01699, JPR Planning Services.

So, Alan, can somebody introduce the first item?

MR. SEAMAN: Sure. Oscar Gamez, who is the project manager, will go ahead and introduce that.

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

Location is 17971 122nd Drive North, approximately 280 feet south of Indiantown Road and approximately 0.28 mile west of Alexander Run within the Jupiter Farms Subdivision in the AR Zoning District.

VICE-CHAIRMAN BASEHART: Is the applicant present?

MR. BURCH: Yes.

VICE-CHAIRMAN BASEHART: I think what we'll do is start off by giving you an opportunity to present your request and your justification for the granting of the variance that you've requested. Again, for the record, your name?

MR. BURCH: Christopher Burch.

VICE-CHAIRMAN BASEHART: And you've been sworn in?

MR. BURCH: Yes, I have.

VICE-CHAIRMAN BASEHART: Okay. You may proceed.

MR. BURCH: I just want to have a three-car garage on the front of my house with storage up above it so I could basically get a lot of stuff out of my yard and clean up the neighborhood.

VICE-CHAIRMAN BASEHART: Okay. Your request is to allow a setback variance?

MR. BURCH: Yes.

VICE-CHAIRMAN BASEHART: And the variance would be to allow 44-1/2 feet as opposed to Code required 84.17, so it's 39.67 foot variance. What we need to know in order to justify the variance why it is that your addition, your garage could not be placed in conformance with the Code?

MR. BURCH: The way the house was originally put on there, it doesn't -- it sits on an angle, so it doesn't allow me to put the garage anywhere else on the property because I have a septic field in the back where it could be a location and the house just sits on a weird angle where that would be the logical place to put it, on the front.

VICE-CHAIRMAN BASEHART: You were here last month.

MR. BURCH: Yes, sir.

VICE-CHAIRMAN BASEHART: And my recollection is that it was postponed to give you an opportunity to meet with your neighbor over concerns about screening and privacy and the owner that would be the adjacent owner to the what, south?

MR. BURCH: Yes.

VICE-CHAIRMAN BASEHART: Have you done that?

MR. BURCH: No. They have a buffer, a

natural buffer there.

MR. SEAMAN: For the Board's knowledge, that's a picture right there for you. I don't know if you saw that. That's looking from his lot to the lot to the lot to the south, so you can see there's considerable screening there right now.

VICE-CHAIRMAN BASEHART: Okay. Anything else you'd like to add?

MR. BURCH: No.

VICE-CHAIRMAN BASEHART: Let's do the staff recommendation and then we'll go to the public.

MR. GAMEZ: I want to read some key points in the seven criteria.

Staff is supporting this because of the angle at which the applicant's house was built and the 30-foot right-of-way easements taken along the north and east property lines severely limits the buildable area for the project, the subject lot.

The building records for the subject property show the house at a different angle than what was actually built, and the house was built by the previous property owner too close to the front property line and at an angle which limits additions due to the current building setbacks.

Also, the proposed garage addition is a reasonable use of the property. The chosen location is the most logical due to the angle of the house, the existing pool and the current floor plan.

The request is compatible with the surrounding neighborhood where there are many houses with three-car garages with comparable in size.

MR. SEAMAN: We actually have a few pictures here to show you other homes in the area that have garages that also have a visual impact on the area.

MR. PUZZITIELLO: Is this considered a front yard setback or side yard setback?

MR. GAMEZ: It's a front yard setback.

The third picture shows an example -- the second picture shows a garage with a living area on the top of the garage, which is similar to the applicant's proposal, and the third picture shows a brand new home being built with a side entry for the garage, which is similar to the applicant's garage.

MR. SEAMAN: So this is not something that's not already being enjoyed by residents in the area.

VICE-CHAIRMAN BASEHART: Okay.

MR. GAMEZ: This is additional storage space which will allow the removal of two existing sheds and various items in the yard. The proposed garage will be used for residential purposes and will have no negative effect on the surrounding area.

Lastly, the most affected south property line is buffered by dense native landscape material which will lessen the impact of the addition.

VICE-CHAIRMAN BASEHART: Okay. This is a public hearing. Members of the public that are here to oppose the request, this is your opportunity to provide your reasons.

Your name for the record?

MS. FALKO: My name is Liudmyla Falko. I live at 17887 122nd Drive North in Jupiter Farms and yes, I have been sworn in.

VICE-CHAIRMAN BASEHART: And that's next door to the subject site?

MS. FALKO: I'm directly south.

VICE-CHAIRMAN BASEHART: Okay.

MS. FALKO: Item number seven of the staff recommendations which reads, "The grant of the variance will not be injurious to the area involved or otherwise detrimental to public welfare."

And what eight households are saying and these eight households are located on 122nd Drive, I believe, that no, the addition will subtract value from the neighborhood for being oversized compared to surrounding structures.

A 3-car garage with storage on top in this location is injurious to neighbors as it is architecturally and visually disturbing and unpleasing.

I have also looked at these photos. I do have copies of them that were given to me a couple of days ago. Just give me a minute to give these out.

VICE-CHAIRMAN BASEHART: So you're going to submit some pictures?

MS. FALKO: Can I do that?

VICE-CHAIRMAN BASEHART: Well, you can do that. We're going to have to accept them into the record. Then we have to keep them.

MS. FALKO: That would be great actually.

VICE-CHAIRMAN BASEHART: Okay, and actually I neglected to have this acknowledged into the record, so whoever wants to make the motion. If there's anything else that you want to submit for the record, do it now.

MS. FALKO: Okay. I think this will be it.

Basically, I have been talking to several architects --

VICE-CHAIRMAN BASEHART: Get close to the mic, please.

MS. FALKO: Basically, I have been talking to several architects. One architect that I spoke with is not in the area, but he's a certified registered architect and all I can go by was the aerial view of Mr. Burch's property and the survey diagram, which was submitted to the Board a while back.

And he looked at it and I knew the height of what the garage would be, which was 34 feet. I asked him to draw something for me just so we can see what it would look like. So he did that. And I'd like to pass that around.

VICE-CHAIRMAN BASEHART: Okay. Well, again, you need to submit everything that you're going to submit. You said you had some pictures?

MS. FALKO: Well, no, I was just looking at these pictures. I'd like to --

VICE-CHAIRMAN BASEHART: So it's just the sketch that you want to submit?

MS. FALKO: For now, but I'd like to talk about these pictures.

VICE-CHAIRMAN BASEHART: Sure, absolutely.
Do we have --

MR. PUZZITIELLO: I make a motion that we accept the justification for number seven and the drawings that are being handed out.

VICE-CHAIRMAN BASEHART: Okay. We have a motion by Mr. Puzzitiello.

MR. SADOFF: Second.

VICE-CHAIRMAN BASEHART: A second by Mr. Sadoff. All those in favor?

BOARD: Aye.

VICE-CHAIRMAN BASEHART: Opposed?

(No response)

VICE-CHAIRMAN BASEHART: These items are accepted into the record. Thank you.

MR. PUZZITIELLO: Are we proposing a three story addition or a two story?

MR. SEAMAN: If you're asking staff a question?

MR. PUZZITIELLO: Yes.

MR. SEAMAN: According to the records, it's a two-story, 34 feet, and you're entitled to 35 feet in Palm Beach County, and he's proposing a 3-car garage and this appears to show a 4-car garage.

So, again, if this is what he's really proposing, this is not what he submitted to us.

MS. FALCO: This is what was drawn up. We don't know what it's going to look like. According to the hearing of December 15th, he was saying there's storage, but it is 35 feet high in front of his home, 44 feet long, which my architect seems to feel that 44 is way too long for a 3-car garage. It actually will fit four cars.

And application is for a 39.67 front yard setback variance. In addition, there's bulk. Thirty-four feet high, which is 33,000 cubic feet of bulk which dwarfs the existing single story house of approximately 18,000 cubic feet.

As one drives on either 122nd Drive or on 179th Court, the bulky intrusions into the front yard setback would be an eyesore seriously damaging the aesthetics and property value of the entire subdivision.

Now, the pictures that were shown here -- my property is right here, this is the roof of my house right here (indicating).

I also have this picture, but there's a trailer right here (indicating). It's been sitting there for four years. It has no wheels and it has been sitting there for four years and there's a lot of people have been living there.

Now it is about the same height as this hedge here. I don't know how high a trailer is, about eight or nine feet. We're talking about 34 feet of building of bulk.

So if somebody will tell me that I won't be able to see that building? Yes, 34 feet is very high. That's four times as high as my hedge.

Okay. The other buildings --

VICE-CHAIRMAN BASEHART: Before you continue, and remember, this goes back to what we said at the beginning of the meeting, the applicant

has not requested a height variance.

There's nothing in the Code that says buildings should not be high enough so that they can be seen by neighbors. The Code allows up to 35 feet in height. He's asking for 34 or he's proposing 34, so he's not seeking a variance. So any discussion about being able to see this building is not relevant to the request.

The request is for a setback variance and you really need to limit your discussion of your concerns in opposition to the setback issue, not the building height or bulk because he's not asking for variances from those requirements or limitations.

MR. PUZZITIELLO: It's how it relates to the setback to the road, not to your property.

MS. FALKO: All right. I apologize and with respect, the other building, though, that was shown in this picture, this one here, I believe there's no encroachment. It's only a 2-story building. There's no encroachment from the setback.

So this I don't think is a good -- and I don't think this is anywhere near our area. I believe it's 1.93 miles away and that is only a second story. So it's two miles away. It's not in our immediate neighborhood. It's not in our subdivision.

MR. PUZZITIELLO: All he's proposing is a 2-story, not a 3-story.

MS. FALKO: But --

MR. PUZZITIELLO: His plans only show a 2-story.

VICE-CHAIRMAN BASEHART: For whatever reason, your architect drew a 3-story addition, but we have the plans right here that were submitted for the permit with the variance and it's a 2-story building.

What you've provided here has no relationship to what's being asked for. His plan shows a 3-car garage and it shows a 2-story building. Your plan shows a 4-car garage and a 3-story building. I don't know what the relevance is.

MS. FALKO: It's big, it's very big. It's not a barn, it's not a warehouse and a barn. In fact, I don't know, if anybody else wants to speak.

MR. JACOBS: Well, I think the objecting party's basis for objecting is that the grant of the variance would be injurious to the area.

MS. FALKO: Yes.

MR. JACOBS: And whether it's 34 feet or 24 feet, that's the claim. But I have a question.

If it were just a garage without the living space above, would you object?

MS. FALKO: What size would it be?

VICE-CHAIRMAN BASEHART: I don't know, it's not our job to design, you know.

MR. JACOBS: I'm just asking a question.

VICE-CHAIRMAN BASEHART: But he could just have -- the Code allows him to go to 35 feet, so the height of the structure is not a relevant discussion at this meeting.

It's the encroachment, the issue before us, all right, is whether or not he's met the seven criteria and has a legitimate variance request to build this garage and living space or storage, whatever it is, space addition closer to the road. Not closer to your property.

He isn't asking for a variance from the setback against your property. He's asking for a variance from the required setback from the road.

And the only thing relevant to our discussion is whether or not granting that variance would be in the case of you've picked one issue and that's criteria number seven, whether or not that's injurious to the neighborhood. That's what we have to concentrate on.

MS. FALKO: Many of those neighbors who are on that list, eight neighbors, those are family names, not just names. They're actually full households, each name is a full household, feel that even though it will bring up the value of his property, it will bring down ours or our houses might be harder to sell.

VICE-CHAIRMAN BASEHART: Okay. Do they have a reason for that? It's kind of like you saying, well, if I get a really nice car it's going to decrease the value of yours.

MS. FALKO: Well, there's probably reasons, I don't know if I can bring it up here, I don't think I can.

VICE-CHAIRMAN BASEHART: Okay. Thanks. Next member of the public? Your name, please?

MRS. TIPPS: Good morning. My name is Patricia Tipps. I reside at 17827 122nd Drive North in Jupiter Farms and yes, I was sworn in.

VICE-CHAIRMAN BASEHART: Okay.

MS. TIPPS: The reason I object is because I feel that the variance is excessive. I understand and I don't think anybody in the neighborhood objects to him building a garage. Many people have 2-story, 3-story, 4-story -- people have mobile homes inside their garages in the Farms; that's why most of us live in the Farms.

At the same time, he is asking for a variance that encroaches on the front of his house where when we have to drive by it will actually block the view of all the other homes on the block because it sticks out so far. I realize that he has septic in the back and there's plenty of room for him to build a garage in the back, like most people do.

The home that he showed here, one of the homes that has the 2-story garage, is listed I think on Melon. And that home is on a 2.5 acre parcel. That garage is also on the side of his house and does not encroach towards the front of the roadway.

You know, all of us get along. This is not a personal issue. This is just when he determines that this is going to increase the value of our neighborhood, we all disagree. Will it increase the value of his property? Absolutely.

Any time you add square footage and someone

who wants to have a Jiffy Lube on their property would agree that that would be necessary, but for the rest of us, it does not fit the remainder of the way our block looks and I just don't think it's appropriate.

I truly believe that it could be placed in the back, even if he had to move the septic. He already has a driveway that extends off of 179th where he could put a detached garage.

We ourselves want to put a garage on our property, but we're not going to encroach on anything other than put it on our property. If it means extending our driveway a little further and it's a cost to us that we have to, that's part of the deal.

When he purchased this home, yes, it sits on an angle on that lot. It sits catty-cornered basically and I understand what the problem is. At the same time, it is not fair to extend it in the front.

I don't object to him building it in the back. I don't object to him building it on the side, but I do object to it being built on the front. Thank you.

VICE-CHAIRMAN BASEHART: Very good. Thank you.

MR. TIPPS: Good morning. My name is David Tipps. I live at 17827 122 Drive North and I've been sworn in.

My thoughts are that it's extremely unfortunate that when Mr. Burch purchased this home that the house was built at an angle; it wasn't planned on and everything else, and it puts him at a disadvantage. I understand. That's a problem only in the sense that it affects what he can do on that property.

But, other than feeling bad about that, there's not much more I can do about it. I do take exception when I feel like what he wants to build is going to hurt our property values.

He's on the northwest corner of our block. If you're coming in as a potential property buyer or appraiser, you're going to have to come up Indiantown Road to Alexander Run and you're going to come in right on the northern part of our block there, which is right -- the first thing you're going to see when people pull into our street will be his garage that's sticking out there.

It's going to have to appear commercial and there won't be anything in the neighborhood that looks anything like it.

Now in here, it keeps talking about is there anything unreasonable or are there other homes like that?

Yes, there are other big garages people have built, but they're not situated at an angle on this property where that would just dominate your view, and it's going to affect the visual perception or the emotional perceptions of potential home buyers and appraisers from say if someone comes up from Boca and they don't know a thing about the Farms. They're going to drive around and that's going to

look like a big giant barn and they're not going to see -- the rest of the homes on our block look nothing like that, you know, and it's unfortunate.

I know he's a second owner and it's almost something you have to look at when you buy a home out there is what you may want to do with it. His plans are just way too aggressive for the size of this lot. It's unfortunate the way it's set.

It's nothing personal. He's a wonderful neighbor, he's a great patriot. At the same time, it will affect our home values, we feel, when people come and potentially what they would be able to do.

MR. PUZZITIELLO: I have a couple of questions for you.

MR. TIPPS: Yes, sir.

MR. PUZZITIELLO: Are all the lots on that street built or are there empty lots?

MR. TIPPS: No, they're all built. They're all pretty much set back. We've got maybe an acre and a quarter mostly. Big spacious lawns and driveways and the houses are all pretty much --

MR. PUZZITIELLO: Are they all one stories or are there two stories on the street?

MR. TIPPS: I believe they're all 1-story, I can't -- there might one 2-story, but this would definitely look different.

The other homes, like the one that's attached here, and I believe they showed that the guy's building looks like Camelot, you know, with the 3-story with giant domes and stuff. They can build what they want, but the fact is it's set way back off the road, it's not encroaching on anything, and it's not a garage, it's a brand new home.

MR. PUZZITIELLO: Have you seen the plans that he submitted to us?

MR. TIPPS: Yes, I have and I feel like it would be like trying to park the Queen Mary in a trout stream. So it's just way too big.

I do think of course, he needs a garage there. So thank you for listening to my objections.

VICE-CHAIRMAN BASEHART: Thank you. Is there any other member of the public that would like to speak?

(No response)

VICE-CHAIRMAN BASEHART: The procedure is that we will provide the applicant with an opportunity to rebut any of the testimony against the application, if you so wish? No? Okay.

Then we're ready for questions, discussion and a motion.

MR. JACOBS: Mr. Chairman, I'm persuaded that the opponents of the application, at least to my way of thinking, demonstrated to me that the variance would be injurious to the area involved.

VICE-CHAIRMAN BASEHART: Okay.

MR. JACOBS: And I would recommend and move that the variance be denied.

VICE-CHAIRMAN BASEHART: Okay. We have a motion by Mr. Jacobs for denial of this application. Is there a second?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, the motion fails. Do we have an alternative motion?

MR. SADOFF: Before I make a motion or possibly make a motion, I'd like a little more clarification with reference to this plan and that plan.

I'm completely confused -- not completely confused, but I am confused.

MR. PUZZITIELLO: That's the plan. I wouldn't even look at this (indicating).

MR. SADOFF: In other words, this is not the plan?

MR. PUZZITIELLO: No, that's the plan that's folded up.

VICE-CHAIRMAN BASEHART: This is the plan that was submitted and, as you know, the rules are that when you go to the Board of Adjustment if a variance is granted you're bound to the site plan that was reviewed by the site plan, building plan staff.

MR. SADOFF: This is the --

VICE-CHAIRMAN BASEHART: This is what's submitted, yeah.

MR. SADOFF: Okay, so this is irrelevant (indicating)?

VICE-CHAIRMAN BASEHART: I think this was a representation by the lady who spoke in opposition that has a friend, I guess, that's an architect that drew what could happen, but that's not what's proposed.

MR. PUZZITIELLO: I have a question for the last gentleman who spoke. Is your objection more to the 2-story or to the garage and the 2-story?

In other words, if it was a 1-story, 3-car garage on the front of the house --

MR. TIPPS: I think just based on the angle the way it's set there, no matter what you put there it's not going to look good just because of the very nature of a garage with the doors.

Now, one would, of course, be better than two in terms of your visual hit when you first start to drive into the neighborhood. But I do not believe it's a reasonable use of the property.

I believe that a 1-car garage or even a 2-story could still be worked back at the back somehow because there is quite a large lot. Just the way he's got it set, the decision if I were in his shoes would be, sure, I would rather have it out here so that I've got my whole back area to myself, you know, instead of building it that way.

And that's great for him but lousy for the rest of the neighborhood.

I don't know if that answers your question or not.

MR. PUZZITIELLO: It helps. Thank you.

VICE-CHAIRMAN BASEHART: Any further questions or discussion?

(No response)

VICE-CHAIRMAN BASEHART: Any alternative motion?

(No response)

VICE-CHAIRMAN BASEHART: We've got to do something.

MR. PUZZITIELLO: So he's got this -- the way I think I'm reading this, is he's showing it as a side-load garage, so the garage doors are not going to face the intersection; correct?

MR. SEAMAN: The access to the garage comes from the rear.

MR. PUZZITIELLO: Rear of the garage?

MR. SEAMAN: Right.

MR. PUZZITIELLO: So it's a side-load garage and comes off the left side of the house.

MR. SEAMAN: It goes around to the side --

MR. PUZZITIELLO: So someone coming down the intersection will not see the garage doors, they'll see the house. The only time you'll see the garage door is when you're coming out of your street?

MR. SEAMAN: Maybe it helps if we pass this to you so you can tell the access. The access is from --

MRS. TIPPS: The problem with that is that the doors for the garage will be on the side and then he has to have a driveway to at least be able to circle out, in which case it will encroach and be way too close to Letty's house.

MR. PUZZITIELLO: Well, the driveway isn't a setback encroachment.

VICE-CHAIRMAN BASEHART: He's not asking for a variance for the driveway.

MRS. TIPPS: I'm just making mention of it.

But the other thing is, like I said, obviously the County has setbacks for a reason. If he was asking for ten feet, 15 feet maybe, but that's more than half of what he's asking for and it will stick out so far that literally if Letty wants to come out of her driveway she won't be able to see to get out of her driveway, and it just doesn't seem fair.

I mean, I don't object to him building. You know, the height is what it is, but it just doesn't seem fair to get a variance of that amount of feet.

VICE-CHAIRMAN BASEHART: Well, according to the variance request, there will be 44-1/2 feet between his front property line and the garage. It's not like the garage is going to be on the road.

MRS. TIPPS: But it sticks out quite far because of the angle of the home.

VICE-CHAIRMAN BASEHART: Okay.

MR. JACOBS: But it's a 39-foot variance.

VICE-CHAIRMAN BASEHART: Yes, it is.

MR. PUZZITIELLO: Is there a canal on the west side of 122nd or is it just showing a big swale?

MR. SEAMAN: No canal.

MR. JACOBS: Mr. Chairman, I think I also add and one of the gentleman who spoke in opposition made the point, but I think I should make it for the Board, there is a finding by the staff that special circumstances and conditions do not result from the actions of the applicant.

I don't think that's the case. I think when an applicant or somebody buys a house, they take it

with whatever limitations might arise and I think that it was incumbent on the applicant when he bought the house to figure out what he was going to do with it.

So I think in addition to condition seven, I disagree with the staff that the actions aren't a result of the actions of the applicant.

VICE-CHAIRMAN BASEHART: So your conclusion is that the hardship that he faces is in fact really self-imposed?

MR. JACOBS: Sure, he bought the house as was, if that's good English.

VICE-CHAIRMAN BASEHART: Okay. I guess Dave got tired of us.

MR. PUZZITIELLO: Early retirement.

MR. SEAMAN: I guess as staff I could reiterate that we sat and looked at this drawing and we looked at some alternative designs and part of why we thought the circumstances were unique was because, of course, the house was juxtaposed a different way and the fact that the septic tank also prevented him from putting the house in that location. And even if we could put the house over where the septic tank area is, a front variance -- I think a front variance would still be -- is it front?

The variance would still need to be requested.

MR. PUZZITIELLO: So the septic tank is on the northwest corner of the property?

MR. SEAMAN: So we came up with this as being the minimum variance needed for this gentleman to enjoy what we perceived or what we see to be the same enjoyment as other neighbors have by having large garages.

MR. JACOBS: Yeah, but he bought the house as it existed.

MR. SEAMAN: I understand what your point is, but you know, it's up to the Board.

I mean, we might -- perhaps mitigation could be suggested and usually that's through landscaping or screening or trees, if the Board would feel that that might be a way of helping to reduce what has been discussed as a potential impact on the neighborhood.

MR. JACOBS: But any way you slice it, if we grant the variance, it's a big, bulky building that's going to stick out from the front of his property.

And instead of 80 feet, he's asking for a 39 foot variance and I think that's excessive. I mean, if there's a problem in relocating it, maybe relocating the septic tank or whatever and there's a cost involved, that's a risk he assumed when he bought the property.

VICE-CHAIRMAN BASEHART: Okay.

MR. PUZZITIELLO: I mean, you can do a 3-car garage in about 36 feet, so 44 is definitely more than a 3-car garage, but.

VICE-CHAIRMAN BASEHART: It's within our prerogative to grant a lesser variance than has been requested.

MR. SADOFF: We could do that?

VICE-CHAIRMAN BASEHART: Sure.

MR. SADOFF: Well, I make such a motion.

VICE-CHAIRMAN BASEHART: Okay. Well, you're going to have to be specific.

MR. SADOFF: I make a motion that the length of the proposed garage instead of 44 feet be 36 feet, so that it won't extend out as much as it does now, as it is now, proposed now.

VICE-CHAIRMAN BASEHART: So you're saying that the garage addition should be instead of 44-1/2 feet, you're saying it should be --

MR. SADOFF: Thirty-six feet.

MR. JACOBS: Mr. Chairman, let me suggest that we postpone action on this variance and allow the applicant to meet with the property owners and possibly come up with a design that's more acceptable to the property owners.

VICE-CHAIRMAN BASEHART: That's what we did last month. We postponed him to give that opportunity and they didn't meet.

MS. FALCO: I didn't know about it. I would have been happy to go over and meet with him, but I didn't know about that. I left the meeting, I wasn't told that.

VICE-CHAIRMAN BASEHART: You left the meeting before we postponed it?

MR. SADOFF: No, you were here; I remember.

MS. FALCO: No, you said it was postponed and we left. But I didn't know that I was supposed to meet. I would have if I had known.

VICE-CHAIRMAN BASEHART: Well, when the motion was made to postpone, I believe that specifically it was requested that the applicant meet with the neighbors.

MR. SEAMAN: I recall that they were to get together and work out the differences that they had. We didn't even realize, the staff, that there was sufficient screening there until we went out and took another look and took pictures.

MR. PUZZITIELLO: But that's screened to the side yard, not the front yard? So we're sort of not -- you're not showing us the screen to the proper property line, that we're talking about the variance on?

MR. SEAMAN: There's a perspective in landscape architect in design technique, the front yard and side corner yard are usually considered the public and the public is usually moving to and fro, and screening something along the front right-of-way may or may not be appropriate.

So we were focusing on the homeowner next door who felt that she would be impacted continually if this building went up. But, of course, it's not the setback from her property; it's the setback from the property line.

MR. SADOFF: So the motion I just made hasn't been seconded, so it's dead?

VICE-CHAIRMAN BASEHART: I don't think the motion was completed. You see, your motion is that -- maybe we should ask the applicant if he wants to take a postponement and meet with his neighbors or

if he wants us to move forward.

Mr. Burch, there's a suggestion that this item be postponed for 30 days to provide an opportunity for you to meet with your neighbors and try to resolve your differences and come back here for a decision next month.

I think the sentiment of the Board is that we would be willing to do that if the neighbors and you both, you know, felt like it would be productive. If you feel like there's no point in meeting with the neighbors and you want to move forward right now, then we can make the decision.

MR. BURCH: I've already been held up since we were supposed to have this meeting in November.

Then the hurricane happened and then it was moved to December and now it's moved to January and now it's going to be moved again. If I was going to submit the plans back in November, I've already been, I've already had an increase on the impact fees of 30 percent of what it would be.

MR. PUZZITIELLO: But you realize if you don't take a postponement today, you might not be able to submit a permit, anyway?

MR. BURCH: Yes, sir, but on the -- for variances going back to Mr. Jacobs' comment that I bought it as is, but then you would have no need for any other variances because any other applications that came toward the Board would -- you wouldn't need to see them because they bought their property, also, as it is.

I noticed that you had like about 20 variances on the agenda today. So I'm not sure that his point is valid in that.

MR. PUZZITIELLO: Well, but they were also - - there's also a consideration we look at, is it the least amount of variance that we can do or is it excessive, so I mean, there's also that.

The ones that we've already looked at were we feel the least amount of encroachment they could have been and to still help the people that own the property.

Personally, I don't feel that your application is the least amount of encroachment you can do to get a 3-car garage, so.

MR. BURCH: But the way I have the plans there, the extra amount is for to have an office/den space and to have room to put the stairs up to the second story so I could take stuff upstairs. If you cut it down, then I won't be able to use the second story.

VICE-CHAIRMAN BASEHART: The public hearing has been closed. We're not going to have a debate situation here. You've said your piece. He gets an opportunity to rebut and then we're going to make our decision.

Anything else?

MR. BURCH: No.

VICE-CHAIRMAN BASEHART: Do you want a postponement or do you want to move forward?

MR. BURCH: I believe I would like to move forward. Thank you.

MS. HELFANT: I'd like to clarify something.

You can only approve the variance either with conditions or you can deny the variance. You cannot change the variance that's being requested. You cannot limit it to only 36 feet if he's requested 39 feet. It's either approve it with conditions or deny it.

VICE-CHAIRMAN BASEHART: Okay.

MR. JACOBS: Mr. Chairman, I renew my motion that the variance be denied on the grounds that it fails to meet the first and seventh of our seven criteria.

MR. PUZZITIELLO: I'll second that.

VICE-CHAIRMAN BASEHART: We have a motion by Mr. Jacobs and a second by Mr. Puzzitiello.

MR. PUZZITIELLO: I just want to clarify one thing. This is without prejudice, so if he does decide to talk to his neighbors and come up with a mutual agreement he can come back with that.

VICE-CHAIRMAN BASEHART: Okay. So the motion is without prejudice.

MR. JACOBS: Correct.

VICE-CHAIRMAN BASEHART: Okay. We have the motion and second. Any discussion?

(No response)

VICE-CHAIRMAN BASEHART: All those in favor of the motion, indicate by saying aye?

BOARD: Aye.

VICE-CHAIRMAN BASEHART: Opposed, no.

(No response)

VICE-CHAIRMAN BASEHART: Motion passes unanimously.

VICE-CHAIRMAN BASEHART: Okay. Next item on the agenda is BA2005-01564, Ellie Halperin?

MS. HALPERIN: The members of the public objecting have disappeared.

MR. PUZZITIELLO: We won't ask how you did that.

VICE-CHAIRMAN BASEHART: All right. Did you scare them off or did you satisfy them?

MS. HALPERIN: I don't know; I couldn't find them.

VICE-CHAIRMAN BASEHART: Okay. Well, before we require you to do a presentation, staff is recommending approval.

You agree with the conditions and let me ask again, is there any member of the public here to speak in opposition to this item?

(No response)

VICE-CHAIRMAN BASEHART: Seeing none, do we have --

MR. PUZZITIELLO: Motion to approve.
VICE-CHAIRMAN BASEHART: Okay. We have a motion by Mr. Puzzitiello.
MR. SADOFF: Second.
VICE-CHAIRMAN BASEHART: Second by Mr. Sadoff to approve this variance with the conditions.
MS. HALPERIN: There are no conditions.
VICE-CHAIRMAN BASEHART: Oh, that's right. This was the one with no conditions. All right.
All those in favor indicate by saying aye?
BOARD: Aye
VICE-CHAIRMAN BASEHART: Opposed?
(No response)
VICE-CHAIRMAN BASEHART: Motion passes unanimously.

BOARD OF ADJUSTMENT CONDITIONS

No conditions.

VICE-CHAIRMAN BASEHART: Okay. Then the last item on the Regular Agenda is BA2005-01699, and this is the application of JPR Planning Services for Palm Beach County Property Real Estate Management Division to allow a fence to exceed the maximum height, et cetera.

Alan, you want to introduce this item?

MR. SEAMAN: Yes, I'll let Tim Sanford who's the project manager go ahead and --

MR. SANFORD: JPR Planning Services, agent for Palm Beach County Property and Real Estate Management Division, owner, to allow a proposed fence to exceed the maximum height and be of non-natural materials; to eliminate the required parking space; to have a 2-foot berm; to allow a hedge outside the fence.

And the location is a vacant lot on 40th Road North, approximately 0.35 miles west of Avocado Boulevard and approximately 0.45 miles south of Orange Grove Boulevard in the AR Zoning District.

VICE-CHAIRMAN BASEHART: Okay. Would you like to introduce yourself again and make your presentation?

MS. LINDSEY: Certainly. I'm Jean Lindsey with JPR Planning Services. I'm the agent for Palm Beach County Water Utilities.

Real Estate Management owns the property, but Palm Beach County Water Utilities is the

developer for this property.

What this is is a re-pump station and re-chlorination facility for potable water that goes by the site. It's a two-phased project. The sodium hypochlorite tanks would be the first phase.

It's basically tanks on a slab that inject hypochlorite which is the dilute bleach solution into the water stream to keep the bacteria out as it travels north.

The future will be a pump station which actually provides a boost in the pump for this water so that it can move faster. They don't need that in the short term. As the volumes of demand get larger, when they do build the re-pump station it will look like a house on the outside and the facilities will be on the inside.

This is considered a minor utility. It's in the AR Zoning District, which is a permitted use in that District.

What we're asking for is some variances to recognize that this is a secured facility in terms of its treating the potable water stream, so it needs to be secured. The 8-foot high fence allows some additional security as well as using chain link. It will be black vinyl chain link rather than wood or stone. Provides some better security for the site rather than a 4-foot fence in the front and 6-foot on the sides, which is what the Code would allow.

The hedging around the edge, the Code requires a 6-foot opaque screen whenever you have an incompatible use, which they call these incompatible buffers because this is a non-residential use next to residential uses. So to achieve the 6-foot high screen, we have a 2-foot berm on either side of the property and a 4-foot hedge on top of that.

The 2-foot berm which we're asking for a variance for is actually permitted if we do what they call an alternative landscape plan, but because we can meet and actually exceed the landscape requirements for the site, we don't need an alternative landscape plan, so we're just getting a variance for that berm.

The only other variance we're asking for is minor utilities are required to have one parking space. This is an on-demand facility and there won't be any regular parking there. The people that will come there will be to mow the lawn and fill the hypochlorite tanks.

There's a large circular driveway, so there's plenty of parking on the site without actually providing a separated parking space.

VICE-CHAIRMAN BASEHART: Okay.

MR. PUZZITIELLO: And your landscaping is outside the black chain link fence?

MS. LINDSEY: Right. The Code requires that 75 percent of your landscaping be on the outside of the fence. This is a similarly narrow site. Everything in the subdivision is non-conforming, so to fit the facilities in we're too tight on the property lines with our fence to get 75 percent of

the landscaping on the outside.

So what we're doing is putting a berm or a hedge on the outside of the fence and then all the trees will be right on the other side of the fence on the inside. We'll still achieve the 6-foot opaque screen which is what's required with the combination hedge and berm.

MR. PUZZITIELLO: So the fence will get lost in between all the landscaping?

MS. LINDSEY: Correct, yes. And then the entire back side of the site is a wetland preserve, so this is all wooded and will remain wooded after they remove all the exotics.

VICE-CHAIRMAN BASEHART: Okay. Staff report?

MR. SANFORD: Utility sites that provide access to potable water streams must be secured under the new terrorism laws, Homeland Security, to reduce the threat of contamination. Contamination of the water supply could have catastrophic effects on the water consumer.

Security measures to protect the potable water supply is a special condition not normally encountered in a typical residential development within the Exurban Tier.

The fence requirement is for both height and materials were not written for security sensitive facilities. The proposed site is within the C-51 basin which has extensive stormwater management requirements which necessitates the placing of a 2-foot berm on the east and west property lines.

VICE-CHAIRMAN BASEHART: Okay. Dave, do you want to say something?

MR. CUFFE: Yeah, I'd just like to make sure that -- I notice that the site plan is still showing the base building line at 60 feet north of the south property line.

The base building line was established at 80 feet north of the south property line, so we just want to make sure that you take that into account.

MS. LINDSEY: Okay. Yeah, we really didn't understand that because you had "Resolved" on that and I didn't know exactly what implication that had for --

MR. CUFFE: That's the waiver of the normal base building line, but it's not established at the interior easement line as shown here. It's 20 feet north of the interior easement line. So when you do your final plan, just make sure you take that into account.

MS. LINDSEY: Okay.

MR. CUFFE: It doesn't affect the variances themselves. It's just that the site essentially needs a 20-foot shift to the north.

MS. LINDSEY: Okay.

MR. PUZZITIELLO: Into the wetland preserve.

MR. CUFFE: Dry out some of the wetland.

VICE-CHAIRMAN BASEHART: Basically, it really affects only the location of the future pump facility; right?

MR. PUZZITIELLO: Depending on where they put the driveway.

MR. CUFFE: Yeah, it depends on what they do with the front of the --

VICE-CHAIRMAN BASEHART: Oh, okay, yeah, I see what you're saying.

MS. LINDSEY: Yeah, and we have room because the setbacks are 100 feet from the front and the rear, so we are already exceeding that at the --

MR. CUFFE: So you've got 120 already, so you'll be back to a hundred.

VICE-CHAIRMAN BASEHART: Okay. This is a public hearing. The applicant has made their presentation. So has staff. We're opening it up for the public.

MS. LANDER: My name is Lisa Lander and I live at 13881 40th Street North and I have been sworn in. I am the property to the west of the property in question.

VICE-CHAIRMAN BASEHART: Okay.

MS. LANDER: First of all, just to let you guys know, some of your information is incorrect. The road behind that property is 40th Lane North, not 40th Road. You addressed it as 40th Road. So there's 40th Street in the front and 40th Lane in the rear.

VICE-CHAIRMAN BASEHART: That's what the survey and the site plan say.

MS. LANDER: I was listening to that and it's also incorrect in this document, the Agenda.

VICE-CHAIRMAN BASEHART: Okay.

MS. LANDER: We have a small community into our community. We have a lot of small children that are on 40th Lane North and one of the best safety features that we have on our road is that everybody does maintain the proper height of the fence lines and the shrubbery and we can all see each other's children and we can see our children and for safety issues for our homes because there has been a lot of break-ins, to have an extremely closed in area and have a way for someone to hide in the neighboring lot due to what they're attempting to create here is not something that makes us very happy.

One of the things that was mentioned was flooding. That is a huge issue on my property and on the property to the east of this property. And as soon as they put berms up, we will be buried under water on the side property lines again.

We happen to have been lucky this far that nobody built anything on that lot and all the water seems to drain to it, so if that becomes developed obviously then we're going to have a huge flooding issue. And I understand that someone else may not cause harm to someone else when they build.

So, in essence, putting that berm there to begin with is going to flood other areas or other homeowners.

The fence line is too high. We can barely get out of our driveways as it is because people do about 85 miles an hour down 140th Street North and anything else that's going to impede our view because of the height or the site line of trying to get out is going to be an issue.

To bring back some of the information this was kind of set up because she explained what this is, I have your ULDC Codes and I also have the new land development 2005 edition.

One of the things that Zoning specifically says is that this would be considered an accessory as a utility because it's not -- it talks about treatment facilities or what have you. The minimum setback is 100 foot and it's not just front and rear. It's from the sides. That leaves them nine feet in the center to build their project and approximately 200 feet in between to build their project.

So I don't believe that they're conforming with the setback issues that are in the ULDC code, which happens to be page 86 of 142 in your ULDC code, Article 4.

So the required setbacks are 100 foot all around for something like this, not just front and rear. So there's not enough room to build this thing to begin with.

VICE-CHAIRMAN BASEHART: Alan, do you want to address that?

MR. SEAMAN: That's what I was just looking in our Code book, the matrix, and this is -- we're looking for water or treatment plant, we're looking at minor utility, I'm just looking at the choices.

And you are a minor utility, so that's the niche that they're put into in our ULDC, and you are in the --

MS. LANDER: The second column over.

MR. SEAMAN: -- yeah, AR, and you're in the rural service area?

VICE-CHAIRMAN BASEHART: Yeah.

MS. LANDER: Exurban.

MR. SEAMAN: So that's DRO approval, which we will be going to DRO. And under our notes, which we have number 134, I guess where I'm going with this is we have a specific code that addresses this use and you're going to a section that talks about accessory uses, which is not necessarily what's used in this case.

This is specifically a minor utility. It has a name, it has a niche. It has its own property regulations. They are on wherever I was going -- what was it?

VICE-CHAIRMAN BASEHART: Just by definition in the Code, this thing has to be a primary use. An accessory use is a use that's on the property that's subservient to a primary use on the same property.

If there were a utility plant on the property, then this facility would be an accessory use, but this is in this case, this facility is the primary use for the property. And since there is a specific code designation for that, it's all the more reason why it's a primary use.

MS. LANDER: And what makes it minor? It's going to be treating water and it's going to be pumping wastewater and water to and fro from -- so what makes it minor? It's a lift station.

MR. SEAMAN: Could I read the definition for

you in our Code book?

VICE-CHAIRMAN BASEHART: Sure.

MR. SEAMAN: Minor utility, mechanical equipment associated with utility distribution, collection or transmission networks required by their nature to be relatively dispersed throughout their service area other than electric generation and transmission voltage facilities.

Typical uses include gas and water regulators, electrical distribution substations, sewage lift stations, telephone exchange buildings and communications substations.

MR. PUZZITIELLO: And this is only potable water; it's not wastewater?

MS. LANDER: There will be waste -- well, the water chlorination will be for water only, obviously, but there will be -- they dropped the pipes in in our street and wastewater is going one way and water is going the other way. The future pump station will take the wastewater to go east and take the potable water to go west, according to Alicia Picca (ph) from the Department of Water Utilities.

And at some point there's also supposed to be something like a 3,000 gallon water storage tank here, so the word "minor" seems to -- it doesn't seem minor to us. This sits between two homes. They've never done this in the County before. This shouldn't be here.

This is my home and this is the neighbor's home (indicating). This is not like this is set somewhere outside away from people. And according to the Health Department, they can say what they want, but it will smell, there is no doubt, whether it's contained or not, according to two or three gentlemen at the Health Department. It will smell when they go ahead and do the function of the pumping.

VICE-CHAIRMAN BASEHART: Okay.

MS. LANDER: But to get back to the actual variance, no berms. They will flood all the neighboring lots. The tree height, it keeps us from seeing each other, our children, protecting our neighborhood --

MR. PUZZITIELLO: Well, let's go back to the first one, the berms. You're saying you drain your water onto other people's property. You're not supposed to be doing that in the first place, so the berm is going to keep your water on your property.

MS. LANDER: Right, well, actually what's happened since the beginning when we purchased it, we brought over 200 loads to our property and we actually do drain out to the drainage that Indian Trails has created now.

MR. PUZZITIELLO: But I mean, those berms on that piece of property should not affect your drainage for your property because you shouldn't be draining on to that property in the first place.

MS. LANDER: What will happen is that we will retain water beyond a normal situation because

--

MR. PUZZITIELLO: You're not supposed to drain onto that property.

MS. LANDER: Well, when it's a place that has not been built yet, I mean, that's a natural happenstance. That's not something we did.

VICE-CHAIRMAN BASEHART: But that's not justification to prevent the adjacent property from being built.

MR. PUZZITIELLO: If they built a house there, they could do the same thing and you'd still have to deal with your own water.

MS. LANDER: Well, the berm situation versus some of the prior plans that I have specifically state that they're going to match elevation. So putting a 2-foot berm versus matching elevation, which is what came from the plans from the Health Department are two different scenarios and two different stories and the stories keep changing with the Water Utilities Department.

So, you know, what's going to be the end result? Are they going to match elevations so we can all just drain and be okay or are they going to berm us in on all sides so that they flood us out or, you know, those types of scenarios?

VICE-CHAIRMAN BASEHART: Why don't we ask the agent to respond to that?

MS. LINDSEY: The C-51 basin is a zero discharge basin, so everybody's responsible for retaining 100 percent of their own stormwater on site. That's the reason why we have to put the berms up to make sure that we can retain all 100 percent of our stormwater.

MR. PUZZITIELLO: So you're meeting the Code where they might not be because they're draining on other people's property.

MS. LINDSEY: Yeah, I can't comment on what's happening on adjacent properties, but that's what's happening on this particular site.

VICE-CHAIRMAN BASEHART: But your engineering design for the site is going to be such that in a 100 or -- is it a ten year or a 100 year storm, this property will not drain onto adjacent properties?

MS. LINDSEY: Right. It's a 25-year, 3-day storm and we cannot have any discharge off the property and we won't get a South Florida Water Management District permit until they approve our drainage scenario that we would meet those standards.

MR. JACOBS: Is this the first time this type of facility has been placed between two homes?

MS. LINDSEY: That is really beyond my knowledge. I do not know that.

MR. PUZZITIELLO: I'm sorry. What was your second objection?

MS. LANDER: The height of the fence impedes us with the flow of traffic to be able to see when we come out of our areas. It also keeps us from seeing our children, which one of the things that we've all enjoyed so much is being able to -- because we stay in compliance and if Code Enforcement comes out and says, hey, cut your

hedge, you know, everybody's in compliance. We can see where we're going; we can see what we're doing; we can watch our children.

And this thing is just going to be a huge clutter of ficus hedge. So it's going to impede the view and it's not going to fit in to the neighborhood or its standards.

MR. PUZZITIELLO: Well, the fact that the facility is there is not what we're here to determine.

VICE-CHAIRMAN BASEHART: My understanding of the issue, yeah, and you're right, we're not here to decide whether this facility can go here. We're here to decide whether or not these variances should be granted and, you know, I guess the issue is security for the Utilities Department, which in turn, you know, provides a benefit or a security for the people that are using the water that gets put through here and gets purified, so that nobody tampers with it.

We need to weigh that issue versus a visibility issue, which is your issue is that if the --

MS. LANDER: It's also a safety issue because we can't see coming out of our property if the site line is going to be blocked by such a large hedge.

MR. PUZZITIELLO: But, well, correct me if I'm wrong, but the fence is going to be -- the center of the road, the fence is going to be 65 feet off the center of the road?

MR. CUFFE: It'll be 20 feet further north from where it's --

MR. PUZZITIELLO: Eighty feet.

MR. CUFFE: Well, 80 feet from the south property line --

MR. PUZZITIELLO: Which is probably the center of the road.

MR. CUFFE: No, it isn't.

MR. PUZZITIELLO: Oh, it's not?

MR. CUFFE: No, the road is completely within the existing 60 foot easement there. But essentially, if you look at the Site Plan there you'd have to envision everything being shifted 20 feet to the north.

MR. PUZZITIELLO: Okay. So from roughly from the north edge of the road to the fence is probably going to be 60 feet, if we figure a 20 foot road?

MR. CUFFE: Approximately.

MR. PUZZITIELLO: So the fence is actually 60 feet off the edge of the road.

MS. LANDER: Not their fence. Their hedge.

The hedge is going on the outside of the fence.

VICE-CHAIRMAN BASEHART: But it will be right up against the fence. So maybe it's 58.

MS. LINDSEY: If I might comment on the hedge, the hedge is required by the Code to be -- you have to have a 6-foot opaque screen between residential and non-residential.

So if we weren't allowed to do the hedge, we would have to get an additional variance to not do

the hedge.

VICE-CHAIRMAN BASEHART: So you've got one part of the Code saying you have to do it and then the other part saying you can't do it.

MS. LINDSEY: No, what we're getting a variance from is the 75/25. The Code requires 75 percent of your landscaping on the outside of the fence and 25 percent on the inside.

We're just putting the hedge on the outside of the fence and the remainder of the landscaping on the inside. That's the limit of the variance we're requesting.

VICE-CHAIRMAN BASEHART: That would help with the visibility, I would think. Okay.

MR. JACOBS: I don't think you've got any choices to the height because of the security regulations.

MR. PUZZITIELLO: The fence is six feet?

VICE-CHAIRMAN BASEHART: No, they're requesting that it be eight.

MR. PUZZITIELLO: Eight feet on top of a 2-foot berm basically, but the hedge will be a 6-foot hedge on the outside.

MS. LINDSEY: It's actually a 4-foot hedge on top of a 2-foot berm which gives you your 6-foot screen that's required by Code.

MR. PUZZITIELLO: Okay. So there's going to be 4 feet of fence sticking above the hedge?

MS. LINDSEY: That's correct, and then on the other side, remember this is a black vinyl fence so it's not like a silver chain link, it disappears.

Then on the other side will be all the other required landscaping, which is trees every 20 feet and so on and so forth.

MR. PUZZITIELLO: Okay.

MS. LINDSEY: And right now this is a completely wooded lot. So it's not opaque or it's not --

MR. PUZZITIELLO: Open.

MS. LINDSEY: Right.

MR. SADOFF: The odor that you mentioned before, the smell --

MS. LANDER: Well, it hasn't been built yet. It's not part of what this is.

MR. SADOFF: I was just about to say that's not part of this, but where do you get the idea that this is -- in fact I was wondering about the odor that you mentioned before.

MS. LANDER: Right here (indicating) is a future pump facility. According to Palm Beach Water Utilities, of course living next door I wanted to know what they were doing, according to Alicia Picca (ph) from Water Utility Department, this is going to pump water to the west or east, to the rechlorination station and then send it to the west for probably GL Homes if Scripps doesn't go in.

And on this side, the wastewater lines that they dropped in is going to send wastewater or sewage through this pump station going east to the facility east. They need it to boost the pressure.

So that is what this does. This station is going to boost the pressure.

So the pipes will come into this pumping station, be contained in the house and continue on to where it comes out, so to speak, in the house there's room for error, so to speak, and it's going to have odor.

VICE-CHAIRMAN BASEHART: So you're saying the same pump is going to pump water one way and sewage the other way?

MR. PUZZITIELLO: Same building.

MS. LANDER: No. They have two main pumps that I'm aware of and apparently diesel generators which will also be going on and those diesel generators are also a noise issue and they'll also be storing toxic chemicals on this lot as well.

VICE-CHAIRMAN BASEHART: Well, the diesel generators, I would assume, are only for emergency power.

MS. LANDER: For emergency power loss.

MR. PUZZITIELLO: Which would be a good thing to have.

VICE-CHAIRMAN BASEHART: Okay. Any other issues?

MS. LANDER: Oh, I've got lots of them, but we won't discuss those here.

VICE-CHAIRMAN BASEHART: Okay. Then we'll close the public hearing and we'll open the floor to questions and comments from the Board members.

MR. PUZZITIELLO: Although I feel for the lady who spoke because she does live next to it, I don't think that the variances that we're looking at are excessive and I think they're -- I agree with the staff report and would vote for approval of this variance.

VICE-CHAIRMAN BASEHART: Okay. We have a motion by Mr. Puzzitiello.

MR. MISROCH: Second.

VICE-CHAIRMAN BASEHART: And a second. Is there any further discussion?

(No response)

VICE-CHAIRMAN BASEHART: All those in favor of the motion, indicate by saying aye?

MR. PUZZITIELLO: Aye.

MR. MISROCH: Aye.

MR. JACOBS: Aye.

VICE-CHAIRMAN BASEHART: Aye.

Opposed, no?

MR. SADOFF: No.

VICE-CHAIRMAN BASEHART: Mr. Sadoff has voted against the variance, so it would be a 4 to 1 approval.

BOARD OF ADJUSTMENT CONDITIONS

1. Prior to DRO Approval, the applicant shall have the approved variances, pursuant **BA-2005-1699**, labeled on the site plan. (DRO: EVENT: ZONING)

VICE-CHAIRMAN BASEHART: Okay. That I believe concludes our business for today. Anybody have anything to say before we adjourn the meeting?

(No response)

VICE-CHAIRMAN BASEHART: Ready for a motion for adjournment.

MR. SADOFF: I make such a motion.

MR. JACOBS: I'll second.

VICE-CHAIRMAN BASEHART: Motion and second.

All those in favor?

BOARD: Aye.

VICE-CHAIRMAN BASEHART: All those opposed?

(No response)

VICE-CHAIRMAN BASEHART: The meeting is adjourned.

(Whereupon, the meeting was adjourned at 11:10 a.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the above-entitled and numbered cause was heard as hereinabove set out; that I was authorized to and did report the proceedings and evidence adduced and offered in said hearing and that the foregoing and annexed pages, numbered 4 through 53, inclusive, comprise a true and correct transcription of the Board of Adjustment hearing.

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6th day of February, 2006.

Sophie M. (Bunny) Springer