

**PALM BEACH COUNTY**  
**BOARD OF ADJUSTMENT**

Thursday, June 15, 2006  
9:00 a.m. - 10:25 a.m.  
100 Australian Avenue  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer  
Notary Public

A T T E N D E E S

Ms. Chelle Konyk, Chairperson

Mr. Robert E. Basehart, Vice Chairman

Mr. Joseph Jacobs

Mr. Raymond Puzzitiello

Ms. Nancy Cardone

Dinah S. Stephenson, Attorney

Annie Helfant, Assistant County Attorney

Alan Seaman, Senior Site Planner

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

Timothy Sanford, Site Planner I

Joe Cearley, Site Planner I

Ora Owensby, Senior Site Planner

Juanita James, Zoning Tech

Annette Stabilito, Secretary

Stephanie Gregory, Student Para Professional

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P R O C E E D I N G S

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CHAIRPERSON KONYK: We'll call to order the Meeting of the Board of Adjustment, starting with the roll call and declaration of quorum.

MS. STABILITO: Mr. William Sadoff.

MR. SADOFF: (No response)

MS. STABILITO: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. STABILITO: Ms. Dinah Stephenson.

MS. STEPHENSON: Here.

MS. STABILITO: Chairperson, Ms. Chelle Konyk.

CHAIRPERSON KONYK: Here.

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

VICE CHAIRMAN BASEHART: (No response)

MS. STABILITO: Ms. Nancy Cardone.

MS. CARDONE: Here.

MS. STABILITO: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch.

MR. MISROCH: (No response)

MS. STABILITO: Donald Mathis.

MR. MATHIS: (No response)

CHAIRPERSON KONYK: Next item on the agenda is the opening prayer.

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

CHAIRPERSON KONYK: Please join us in the Pledge.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON KONYK: Let the record reflect that Mr. Basehart has arrived.

We have before -- I have before me proof of publication in the May 28th, 2006, Palm Beach Post.

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

Items on the consent agenda are items that are recommended for approval by staff. The applicant agrees with any conditions. There's no opposition from the public, and no Board member feels the item warrants a full hearing.

If there is opposition from the public or a Board member feels that the item warrants a full hearing or if the applicant does not agree with the conditions staff has recommended, a consent item will be reordered to the first item on the regular agenda.

If your item does remain on consent, we will vote on the consent items, and you're free to leave after that, and your consent letters will be mailed to you.

If your item's on the regular agenda, that's usually because there's opposition from the public or you don't agree with the conditions or staff doesn't recommend approval or a Board member feels the item warrants a full hearing.

Items on the regular agenda will be introduced by staff. The applicant will give their presentation. Staff will give their presentation. At that point we'll hear from the public.

After the public portion of the hearing is closed, we'll vote on the item.

Everyone received a copy of the minutes from the May 18th, 2006 meeting. Does anybody have any corrections or additions?

(No response)

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

VICE CHAIRMAN BASEHART: So moved.

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

MR. JACOBS: Second.

CHAIRPERSON KONYK: -- Mr. Jacobs.

All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

Remarks of the Zoning Director.

MR. SEAMAN: I wanted to remind everybody that most of you know we're moving into a new building in July, and there will be no public hearing in the month of July

Things that we -- that were taken in this month will all be heard in August. So the next public hearing will be in August at the new building, which is 2300 Jog Road, just to remind you.

CHAIRPERSON KONYK: Okay.

CHAIRPERSON KONYK: Approval of the agenda, do we have any changes to the agenda?

MR. SEAMAN: Yes, we have two petitions that are postponed.

Petition 06-720 is postponed 30 days, which will be postponed to August, and it needs to be by vote.

CHAIRPERSON KONYK: Where is this one? Is this a consent item?

MR. SEAMAN: Look at the very --

CHAIRPERSON KONYK: Oh, it's right there.  
MR. SEAMAN: -- the very --  
CHAIRPERSON KONYK: Okay. Got it.  
MR. SEAMAN: There needs to be some  
discussions with the applicant and his homeowners  
association, resolve that first, so it'll be heard  
on August 17<sup>th</sup>.  
CHAIRPERSON KONYK: That's 720.  
MR. SEAMAN: Correct.  
CHAIRPERSON KONYK: Postponed, and is this  
by right?  
MR. SEAMAN: This is by vote.  
CHAIRPERSON KONYK: By vote.  
Okay. We have any members of the public  
here on BofA 2006-00720, Edward and Tonia Jones?  
(No response)  
CHAIRPERSON KONYK: Okay. Any Board  
member feel that this item should have a 30-day?  
Is it --  
VICE CHAIRMAN BASEHART: Well, it's  
actually 60.  
CHAIRPERSON KONYK: Oh, 60-day, correct.  
MR. SEAMAN: But it -- but it's 30 --  
VICE CHAIRMAN BASEHART: To the next  
meeting.  
CHAIRPERSON KONYK: Right. Okay, August.  
All right.  
Does somebody want to make a motion to  
postpone this?  
MS. CARDONE: So moved.  
CHAIRPERSON KONYK: Motion by Ms. Cardone.  
MR. PUZZITIELLO: Second.  
CHAIRPERSON KONYK: Second by Mr.  
Puzzitiello.  
All those in favor.  
BOARD MEMBERS: Aye.  
CHAIRPERSON KONYK: Opposed.  
(No response)  
CHAIRPERSON KONYK: Motion carries  
unanimously.

MR. SEAMAN: And we have Petition 2006-  
725, which is also postponing 30 days, so it'll be  
heard August 17<sup>th</sup>.  
CHAIRPERSON KONYK: Oh, that's on the  
regular agenda?  
MR. SEAMAN: And that's on the regular  
agenda.  
CHAIRPERSON KONYK: Is this by right?  
MR. SEAMAN: And this will be by vote,  
also.

CHAIRPERSON KONYK: Okay. BofA 2006-00725, postponed.

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

(No response)

CHAIRPERSON KONYK: Any Board member feel this item should have a 60-day postponement, could you make a motion?

VICE CHAIRMAN BASEHART: I'll move for a 60-day postponement.

CHAIRPERSON KONYK: Motion by Mr. Basehart.

MS. STEPHENSON: Second.

CHAIRPERSON KONYK: Second. I'm sorry. I don't know your first name.

MR. SEAMAN: Well, just for clarification we should say -- I think we should say 30 days because they're allowed six months.

In case they want to continue to postpone this we need to say it's just a 30 -- 30-day increments right now.

CHAIRPERSON KONYK: We're not having a meeting, though.

MR. SEAMAN: Well, but -- I know, but technically it's 30 days, but will be heard August 17<sup>th</sup>.

VICE CHAIRMAN BASEHART: How about a postponement to the next meeting?

MR. SEAMAN: That's fine. I just want to clarify. They're not asking for 60 days; they're asking for 30.

CHAIRPERSON KONYK: Why do you want to clarify that?

MR. SEAMAN: Because they have six months in which they can continue to postpone, and by saying 60 days in a regular -- they've lost perhaps a month.

VICE CHAIRMAN BASEHART: Well, if --

CHAIRPERSON KONYK: If they -- in other words, you're going to give them an extra month because we're not allowing him to have a meeting next month?

MR. SEAMAN: Correct.

VICE CHAIRMAN BASEHART: They lose a month only if --

CHAIRPERSON KONYK: I gotcha.

VICE CHAIRMAN BASEHART: -- something happens to Alan.

CHAIRPERSON KONYK: All right. Next meeting, right? You amend your motion?

MR. SEAMAN: At least you know I'm here.

CHAIRPERSON KONYK: Okay. Bob's amended his motion.

Do we have -- did we vote on that one yet?

Do we have a second? Oh, Ms. Stephenson.

And then, all those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

CHAIRPERSON KONYK: All right. Anyone that has any intention to speak on any item today, if you would all stand, raise your right hand, and we'll swear everyone in at once.

If you're -- if you're not sworn in, we're not going to let you speak, so.

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

CHAIRPERSON KONYK: First item on consent is BofA 2006-00461, Scott Levine, for Ocean Avenue, to allow a reduction of the right-of-way buffer.

Is the applicant present? Can you come forward and give us your name for the record, please.

MR. LEVINE: My name is Scott Levine, for Ocean Avenue LLC.

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

MR. LEVINE: Yes, I do.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are two in support.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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)



CHAIRPERSON KONYK: BofA 2006-00485,  
Lucido and Associates, for Lost Tree Village.

Is the applicant present?

MR. MATHES: Mark Mathes, with Lucido and  
Associates, and we agree.

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

MR. MATHES: We agree with those. I  
understand there'll be an additional one added at  
this time.

MR. SEAMAN: I'm sorry -- yes.

CHAIRPERSON KONYK: If you want one.

MR. SEAMAN: Oh, I was waiting -- I was  
going to -- considering also that you were going  
to talk about the letter that you --

MR. MATHES: Yes, we do have four letters  
that we just received. I faxed them to Mr.  
Seaman's office last night. I do have copies  
available if you'd like me to submit them with the  
record.

They're letters of the immediate condo  
associations to our north and south and letters of  
two individuals within those condominiums.

VICE CHAIRMAN BASEHART: Of support?

MR. MATHES: Of support, yes, sir.

VICE CHAIRMAN BASEHART: Okay. Just put  
them in the record.

MR. SEAMAN: Do you have those with you  
right now?

MR. MATHES: I do have them.

MR. SEAMAN: Then there was a fourth  
condition that we were going to add to your Board  
of Adjustment conditions. So that'd be on Page 11  
of your report.

In addition to Condition 1, 2 and 3, the  
fourth one we're adding will say, "Prior to the  
Certificate of Occupancy, the applicant shall  
install landscaping as denoted on Exhibit 14,  
revised landscape plan dated 6/7/06, which was  
drawn by Lucido and Associates."

MR. MATHES: And we do agree.

CHAIRPERSON KONYK: Okay. And you agree  
with that?

Say yes so she hears you.

MR. MATHES: Yes.

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

(No response)

CHAIRPERSON KONYK: Any -- we've talked  
about -- any other letters? That's it?

MR. SEAMAN: Well, we had 32 letters  
originally, and they were divided, you know,  
against and for it, and they've met on several  
occasions to work it out which is why he has the  
letter now to --

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

(No response)

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

You may have a seat.

**BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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.
2. Prior to the Development Order expiration of **6/15/2007**, the project shall have received and passed the first building inspection.
3. By **6/15/2007**, any current certified Site Plan for Lost Tree Beach Club shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant to BA2006-485; or have received approval from the Board of County Commissioners to rezone the Beach Club property from RS to PUD status.
4. Prior to the Certificate of Occupancy, the applicant shall install landscaping as denoted on Exhibit 14, revised landscape plan dated 6/7/06, which was drawn by Lucido and Associates.

CHAIRPERSON KONYK: Next item on consent is BofA 2006-00699, Tawn and Susanna Miller, to allow a hurricane-damaged solid roof replacement to encroach into the required side interior setback.

Name for the Record.

MR. MILLER: Tawn Miller.

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

MR. MILLER: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

(No response)

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

(No response)

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

## BOARD OF ADJUSTMENT CONDITIONS

1. By **06/15/2007**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00700, Ernest and Sophie Marks, to allow a proposed structure to encroach into the required rear setback.

Is the applicant present?

MR. CEARLEY: The applicant's not present.

CHAIRPERSON KONYK: Pardon me?

MR. CEARLEY: The applicant's not present.

CHAIRPERSON KONYK: Were they the ones that left, perhaps?

MR. CEARLEY: I wasn't here.

CHAIRPERSON KONYK: Okay. I wonder if they thought that they could leave when I swore them in. Whatever. It's up to the Board what they want to do.

Is there any member of the public here to speak against this item?

(No response)

CHAIRPERSON KONYK: I guess you're not to speak against. Okay.

MR. JACOBS: Madam Chair.

CHAIRPERSON KONYK: Mmm.

MR. JACOBS: I would postpone this item to the next meeting.

VICE CHAIRMAN BASEHART: I agree with that. You know, we've had this discussion before.

The applicants are aware that it's their responsibility to be here to answer questions and defend their application, and if they're not here, I don't think they should be heard.

MR. PUZZITIELLO: You want to reorder it to the end first, see if they show up.

VICE CHAIRMAN BASEHART: Okay. I'd like to make a motion we take this item and move it to the regular agenda.

If they're not here when the item comes

up, we postpone it.

CHAIRPERSON KONYK: Okay. Let's move it to the end of the consent for now. I'll try it again when I get to the end, and then if not, then we'll see about moving it to the regular or whatever.

What do you suggest, Annie?

MS. HELFANT: I mean if you want, you can move it towards the end of the agenda, and then it's up to you whether or not you hear it or not.

I mean you can hear it, even though he is not present.

CHAIRPERSON KONYK: We can?

MS. HELFANT: It's been properly noticed.

Yes, you can hear it.

MR. JACOBS: It's not a question of whether we can but whether we should.

MS. HELFANT: And that's up to the Board.

I mean you can, so it's up to the Board.

CHAIRPERSON KONYK: Well, let's -- let's reorder it to the end of the consent and see what happens.

CHAIRPERSON KONYK: BofA 2006-00704, Daniel and Deborah -- I mean who knows, they may be looking for a parking spot -- Daniel and Deborah Floyd, owners, to allow an overhang to encroach into utility easement.

Name for the record.

MR. FLOYD: Dan Floyd.

CHAIRPERSON KONYK: And staff has recommended three conditions. You understand and agree with those?

MR. FLOYD: I do.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in agreement.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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 (6/15/2007), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By 6/15/2007, The Approved Site Plan for Rainbow Lakes PUD (P-1979-177) shall be amended through the DRO section of the Zoning Division, to reflect the variance approval pursuant BA-2006-704. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00705, Robert and Judith Sams, to allow a hurricane-damaged solid roof screen enclosure to encroach into the required rear setback.

Name for the record.

MR. SAMS: Robert D. Sams.

MS. SAMS: Judith Sams.

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

MS. SAMS: I'm not sure what those conditions are.

CHAIRPERSON KONYK: Probably pretty standard conditions, but let's hear them.

MS. SAMS: I don't know what they are.

MR. SEAMAN: Joe, read them out loud for them.

MR. CEARLEY: Firstly I'm just going to --

CHAIRPERSON KONYK: Be on the mic, please.

She can't pick that up.

MR. CEARLEY: After this hearing you need to take your result letter with a copy of the site plan you submitted to us, and -- we'll actually send you the result letter. You'll take it down to Building where you get your building permit.

And then the second one, the second condition, within a year's time of today it'll have to pass the first building inspection.

So that's --

MS. SAMS: Okay.

CHAIRPERSON KONYK: Okay?

MR. SAMS: Thank you very much.

CHAIRPERSON KONYK: Okay.

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

(No response)

CHAIRPERSON KONYK: Oh, okay.

Any letters?

MR. SEAMAN: Two in agreement.

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

(No response)

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

You may have a seat.

MS. SAMS: Thank you.

MR. SAMS: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00707, Jonathan and Susan Harris, to allow a hurricane-damaged screen roof enclosure to encroach into the required side interior setback.

Name for the record.

MS. HARRIS: Susan Harris.

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

MS. HARRIS: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: Two in agreement.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00709, Christine Montas, owner, to allow an accessory structure to be constructed in the front yard.

Name for the record.

MS. MONTAS: Christine Montas.

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

MS. MONTAS: Yes, I do.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in approval.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00710, Timothy Mahoney, to allow an existing solid roof structure to encroach into the required rear setback.

Hi. Name for the record?

MR. MAHONEY: Timothy Mahoney.

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

MR. MAHONEY: Yes, ma'am.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in approval.

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

(No response)

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

You may have a seat.

MR. MAHONEY: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00717, Miller Land Planning, agent for SRR [sic] Holdings, to allow a reduction of the required right-of-way buffer.

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

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

MR. MILLER: Yes, we do.

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

(No response)



CHAIRPERSON KONYK: Any letters?  
MR. SEAMAN: One in support.  
CHAIRPERSON KONYK: Any Board member feel  
this item warrants a full hearing?  
(No response)  
CHAIRPERSON KONYK: Seeing none, this item  
will remain on consent.  
MR. MILLER: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. Prior to DRO Approval, the applicant shall have the approved variances, pursuant BA-2006-717, labeled on the Approved Site Plan. (DRO: EVENT: ZONING)
2. By **06/15/2007**, all ULDC required landscape unable to be installed within the approximate 93 foot eliminated R-O-W buffer shall be installed in the remaining 15 foot R-O-W buffer.

CHAIRPERSON KONYK: BofA 2006-00718, Courchene Development, for John and Linda Schroer, owners, to allow a portion of an existing roof overhang to encroach. Name?

MR. HARRISON: My name's William Harrison.

CHAIRPERSON KONYK: Are you the agent, I guess?

MR. HARRISON: Yes.

CHAIRPERSON KONYK: Okay. Any -- staff has recommended one condition. Do you understand and agree with those?

MR. HARRISON: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response)

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

MR. HARRISON: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, the Approved Site Plan for the Delray Training Center PUD (P-87-07) shall be amended through the DRO section

of the Zoning Division, to reflect the variance approval pursuant BA-2006-718.  
(DRO: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00721, James Kimes and Cynthia Shannon, owners, to allow an existing lake to encroach into the required side setback.

Name for the record.

MS. SHANNON: Cynthia Shannon.

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

MS. SHANNON: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are none.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. Prior to the Development Order expiration **(6/15/2007)**, the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
2. By **06/15/07**, 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. The Development Order for this particular variance shall lapse on **06/15/2007**, one year from the approval date. The applicant may apply for an extension provided they complete the time extension application prior to the original Development Order expiring. (DATE: MONITORING: ZONING)

CHAIRPERSON KONYK: BofA 2006-00722, Jeremiah Croke, agent, for F. P. Dino and Associates, to allow windows other than glass block or other translucent material.

Name.

MR. CROKE: Jeremiah Croke.

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

MR. CROKE: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in support.

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

(No response)

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, 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 06/15/2007, the Approved Site Plan for Boca Grove PUD (P-80-214) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant BA-2006-722. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BofA 2006-00723, Gregg Roesch, owner, to allow a proposed wall to exceed the maximum height requirement.

Name.

MR. ROESCH: Gregg Roesch.

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

MR. ROESCH: Yes.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in support.

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

(No response)

MR. ROBERTS: Actually, we need to talk about this. There's a base building line problem on that -- on that particular proposal.

CHAIRPERSON KONYK: What's that now?

MR. ROBERTS: Base building line.

CHAIRPERSON KONYK: So how did it get in consent?

MR. ROBERTS: It's my comment.

MR. SEAMAN: So what would you like for us to do?

MR. ROBERTS: Well, actually, Engineering's going to oppose the variance based on the fact that --

CHAIRPERSON KONYK: Okay. We're going to move this to the regular agenda. Sorry. Sorry. You'll be the first item.

CHAIRPERSON KONYK: Okay. BofA 2006-00741, Edie -- Eddie or Edie? Eddie, I'm sorry, Eddie Gonzalez, to allow a proposed addition to encroach into the required side and front setback. Name.

MR. GONZALEZ: Eddie Gonzalez.

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

MR. GONZALEZ: Yes.

MR. ROBERTS: We -- we also have a problem with that because of base building --

CHAIRPERSON KONYK: This one, too?

MR. ROBERTS: Yeah. There's a base building line consideration on there as a --

VICE CHAIRMAN BASEHART: This is a side setback variance. It's not a front setback variance.

MR. ROBERTS: There's a -- there's a base building line on both -- both of those streets.

CHAIRPERSON KONYK: Okay.

MR. ROBERTS: That wasn't represented on the site plan.

CHAIRPERSON KONYK: Sorry. You're going to be reordered to the regular agenda, as well.

VICE CHAIRMAN BASEHART: Well, is this something that wasn't advertised, Alan?

MR. SEAMAN: What we advertised was a front setback and side interior setback.

VICE CHAIRMAN BASEHART: All right. But now he's saying there's a side corner setback

issue?

MR. PUZZITIELLO: No, base building line.

MR. JACOBS: Base line.

MR. ROBERTS: Base building line wasn't taken into consideration in the --

VICE CHAIRMAN BASEHART: In the front or the side street?

MR. ROBERTS: Actually, both.

MR. PUZZITIELLO: It's a corner lot.

VICE CHAIRMAN BASEHART: Well, it seems to me that -- that all the variances that are necessary haven't been advertised then.

The front setback variance was advertised.

The side corner setback encroachment is not advertised; is that correct?

MR. SEAMAN: Well, I'm -- I'm kind of confused. We have letters here that say no -- no need for base line waiver.

MR. ROBERTS: From who?

MR. SEAMAN: This is for Signey Hardy (ph), First Terrace, no need for base line waiver.

MR. ROBERTS: From Signey Hardy?

MR. SEAMAN: Yeah.

MR. ROBERTS: Who's she?

MR. SEAMAN: Land Development Division.

MR. ROBERTS: Miller?

MR. SEAMAN: I'm sorry, Signey Miller. Yeah, she used to be Signey Hardy.

VICE CHAIRMAN BASEHART: You don't Signey?

MR. SEAMAN: It's a long time ago.

MR. ROBERTS: No, I know Sidney very well, but --

MR. SEAMAN: It was in the '80s.

MR. ROBERTS: Yeah. I'm not aware of -- I mean there was base building lines on both of those streets.

VICE CHAIRMAN BASEHART: And there's an encroachment into the base building --

MR. ROBERTS: No, it just wasn't considered in the setbacks, so the setbacks are --

CHAIRPERSON KONYK: Okay. I think we need to reorder this, so we'll move on.

So you're going to need to have a seat. I'm sorry. You'll be the second one on the regular agenda. We can talk about it then.

CHAIRPERSON KONYK: BofA 2006-00834, Allen Preston, to allow an accessory structure to encroach into the side corner setback. Okay.

Your name for the record?

MR. PRESTON: Allen Preston.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: One in support.

CHAIRPERSON KONYK: Any objection from Larry?

MR. ROBERTS: No.

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

(No response)

CHAIRPERSON KONYK: Two conditions. You understand and agree with them?

MR. PRESTON: Yes, I do.

CHAIRPERSON KONYK: Okay. This item will remain on consent.

You may have a seat.

MR. PRESTON: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Time extension, 2006-00805. Is the applicant present, Ruben D. and Martha Espinosa.

Your name for the record?

MR. ESPINOSA: Ruben Espinosa.

CHAIRPERSON KONYK: Okay. I realize this wasn't advertised. I'm always told this when I ask these questions, but it's just easier if I go through the drill.

Is there any member of the public here to speak against this extension?

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: None.

CHAIRPERSON KONYK: Any Board member feel this item should not receive the extension, 12-month time extension?

(No response)  
CHAIRPERSON KONYK: Seeing none, this item will remain on consent.  
MR. ESPINOSA: Thank you.

#### **DEVELOPMENT ORDER**

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

#### **IS HEREBY AMENDED TO READ:**

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

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **May 20, 2006**, or prior to DRO certification, the applicant shall ensure the BA conditions are shown on the certified site plan. (DATE: MONITORING DRO)

#### **IS HEREBY AMENDED TO READ:**

1. By **May 20, 2007**, or prior to DRO certification, the applicant shall ensure the BA conditions are shown on the certified site plan. (DATE: MONITORING DRO)

#### **ZONING CONDITIONS CONTINUED**

#### **TIME EXTENSION ON ONGOING CONDITIONS 2,3 and 4**

2. Prior to the issuance of a Building Permit, all of the required landscaping as detailed in Section D of Resolution 02-609 (Petition 01-054), shall be planted in the reduced incompatibility buffer along the south property line. (**LANDSCAPE**)
3. Prior to the issuance of a Building Permit, all of the required foundation planting that was to be planted along the east side (5 feet) and along the south side (8 feet) of the existing building, shall be installed within the required buffers.
4. Prior to the issuance of a Building Permit, the applicant shall submit both the Board of Adjustment Result letter and a copy of the approved survey/site plan to the Building Division. (**EVENT: MONITORING: BUILDING**)

CHAIRPERSON KONYK: Time extension, 2006-00809, Dror Tregar, for Anya Group.

MR. SEAMAN: And we do have a correction to the condition.

CHAIRPERSON KONYK: Okay.

MR. KNIGHT: Gerry Knight, representing the Anya Group.

We understand the conditions, and we agree with them.

I believe there are two conditions, not three, and that was the correction I think Alan and I talked about earlier.

MR. SEAMAN: Yeah, on Page 89 of your staff report, the numbering sequence -- the numbering sequence is incorrect. Our merge system didn't do it right.

So instead of the No. 2 condition being No. 2 it should be No. 1, and the Condition No. 3 should be 2.

CHAIRPERSON KONYK: So there's only two?

MR. SEAMAN: There are only two.

CHAIRPERSON KONYK: But they're not new conditions, they're from the original approval; correct?

MR. SEAMAN: They're from the original approval.

CHAIRPERSON KONYK: Yeah. Okay.

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

(No response)

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

#### **DEVELOPMENT ORDER**

The Development Order for this particular variance shall lapse on **12/15/2006**, one year from the approval date. (**DATE: MONITORING-ZONING**)

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **12/20/2005**, the applicant shall submit the Board of Adjustment letter and a copy of the revised survey to the Building Division. (**DATE: BUILDING: ZONING**)  
(COMPLETE)
2. By **5/15/2006**, the applicant shall make application and receive all required permits for construction of the seawall or provide proof from any governmental agency that permits are not required. (**DATE: BUILDING: ZONING**)

#### **IS HEREBY AMENDED TO READ:**

2. By **11/15/2006**, the applicant shall make application and receive all required permits for construction of the seawall or provide proof from any governmental agency that permits are not required. (**DATE: BUILDING: ZONING**)



CHAIRPERSON KONYK: Let me just recap the consent.

First of all, let me ask if the party, BofA 2006-00700, Ernest and Sophie Marks, to allow a proposed structure to encroach into the required rear setback, is present.

MR. SEAMAN: I was given a note from Juanita that they would be here. Well, now they should be here in 15 minutes.

CHAIRPERSON KONYK: So let's just reorder them, huh, to --

MR. PUZZITIELLO: Yeah.

CHAIRPERSON KONYK: Okay. So we'll reorder them to the regular agenda.

CHAIRPERSON KONYK: Let me recap what's on the consent.

BofA 2006-00461; BofA 2006-00485; BofA 2006-00699; BofA 2006-00704; BofA 2006-00705; BofA 2006-00707; BofA 2006-00709; BofA 2006-00710; BofA 2006-00717; BofA 2006-00718; BofA 2006-00721; BofA 2006-00722; BofA 2006-00834; BATE 2006-00805; BATE 2006-00809 are the items that are now remaining on consent.

Does anybody have a motion to approve these?

VICE CHAIRMAN BASEHART: Madam Chair, I'd like to make a motion that we approve the consent agenda as amended, and I'd like the record to reflect that the minutes of the hearing include the staff report and recommendation.

CHAIRPERSON KONYK: Motion by Mr. Basehart.

MR. PUZZITIELLO: Second.

CHAIRPERSON KONYK: Second by Mr. Puzzitiello.

Any comments?

(No response)

CHAIRPERSON KONYK: All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

Everyone that was on the consent agenda that's been approved may leave.

CHAIRPERSON KONYK: The regular agenda will be the first item that we pulled which will be -- actually, it's the second item that we pulled, BofA 2006-00723, Gregg Roesch; is that right?

MR. ROESCH: Yes.

CHAIRPERSON KONYK: Did I say it right that time? All right. At least I got an opportunity to pronounce your name correctly.

To allow a proposed wall to exceed the maximum height, and the staff will read the legal.

MR. SANFORD: Gregg Roesch, owner, to allow a proposed wall to exceed the maximum height requirement. Location, 2923 Hinda Road, approximately 0.4 miles west of Prosperity Farms Road and approximately 0.10 miles east of Gardens East Drive within the Kelly Acres subdivision in the RM zoning district, Petition 2006-247.

CHAIRPERSON KONYK: Okay. I guess we should just cut to the chase and find out what Larry's objection is.

MR. ROBERTS: Alan and I were just talking. It would be -- it probably shouldn't be an issue before the Board, but maybe we could postpone this item and discuss it outside.

There is a base building line along A1A that interferes with building this wall at all, but there's a -- there's a possibility that a waiver could be considered, but that can't be guaranteed, certainly, at this Board.

CHAIRPERSON KONYK: All right. Let me ask a question.

Oh, did you want to say something?

MR. ROESCH: Well, just a waiver that is the result of the expansion of the northbound lane of A1A.

MR. ROBERTS: No. The base building line exists now.

VICE CHAIRMAN BASEHART: You understand --

MR. ROESCH: I guess I don't.

VICE CHAIRMAN BASEHART: All right. Well, the Code -- the Code provides what -- what they call a base building line, which is on collector and arterial roads it's the ultimate right-of-way as identified in the Thoroughfare Plan of the Comprehensive Plan.

On other roads it's -- what is it, 60 -- 30 feet from the centerline of the road, all right, and that line is a line that represents what the ultimate potential width of the right-of-way could be in the future, and the Code says that you measure all of your setbacks from that line. All right.

So your property line, your front property line or your side corner property line aren't necessarily where you start to measure your setbacks from, and apparently when the calculation was made for your setbacks, that line was not taken into account.

Did I do it right?

MR. ROBERTS: Pretty -- yeah, that's pretty good.

There is a 40-foot base building -- base building line on A1A. His address is off of Hinda Road --

VICE CHAIRMAN BASEHART: Uh-huh,

MR. ROBERTS: -- which maybe they did consider there. We didn't show a base building line, but A1A controls the situation and interferes with your wall considerably.

VICE CHAIRMAN BASEHART: All right. We'll ask the County Attorney's Office.

Would you have an issue with us voting on the items that were advertised if the applicant understands that he's still got to resolve that base building line issue administratively, and if he can't, he may end up back here again?

CHAIRPERSON KONYK: Well, couldn't we do it subject to?

MR. SEAMAN: I think we should postpone it.

MR. ROBERTS: My suggestion would be to postpone it, but --

CHAIRPERSON KONYK: Well, that's -- I mean is it going to take you guys 60 days or more to resolve this?

MR. ROBERTS: We can't guarantee that he'll even --

CHAIRPERSON KONYK: I understand. I understand that.

MR. ROBERTS: No, it won't take that long, but --

CHAIRPERSON KONYK: Okay. But the point is that we could approve the variance subject to the waiver being granted, and then you wouldn't have to come back.

MS. HELFANT: Yes. I mean you could do that if it's subject to the variance actually being granted, if Engineering is able to approve it and it moves forward. It could be subject to the approval.

CHAIRPERSON KONYK: Right. And then -- go on.

VICE CHAIRMAN BASEHART: Well, you know, I feel -- feel that would be the fair thing to do.

First of all, you know, it wouldn't be so bad if you could come back here next month and determine whether or not things have been resolved, but he's pushing it 'til August because we're not having a meeting next month.

So it's going to hold his project up two months, minimum, where he may be able to get his issue with the base building resolved next week with the Engineering Department.

So I'd be in favor of moving forward with this item and -- and make --

CHAIRPERSON KONYK: Why don't we make another condition. Why don't we have Alan write up another condition and add that to it, and then if he doesn't get that waiver, he understands -- Mr. Roesch, you do understand that if you didn't get the waiver, the variance would have not been granted.

VICE CHAIRMAN BASEHART: I guess we should

get your opinion.

Do you want to just wait, or would you rather --

MR. ROESCH: No. That would be --

VICE CHAIRMAN BASEHART: Okay.

MR. ROESCH: If we just added another requirement.

So my next step would be to contact the Engineering Department?

MR. ROBERTS: Contact me directly.

MR. ROESCH: Okay.

CHAIRPERSON KONYK: And I'm sure he'll be very understanding since --

MR. ROBERTS: This is A1A. We've got -- that's -- that may be a problem we've got to look into a little more.

MR. SEAMAN: Well, part of his issue is it's a noise -- there's a noise problem there.

MR. ROBERTS: Absolutely. I understand. I understand the request for the waiver. It's that we do have some encumbrances to it.

MR. SEAMAN: How does this sound?

This variance is subject to obtaining a base building line waiver --

MR. ROBERTS: Base building line waiver.

MR. SEAMAN: -- or approval from Engineering that the variance can be granted.

CHAIRPERSON KONYK: You okay with that?

MR. ROESCH: Yes.

CHAIRPERSON KONYK: Okay. So your -- BofA 2006-00723 has been amended with four conditions.

You understand and agree with those conditions?

MR. ROESCH: Yes.

CHAIRPERSON KONYK: Any Board member object to this resolution?

MR. SEAMAN: Maybe we should put a time frame on it.

CHAIRPERSON KONYK: Okay. So --

MR. SEAMAN: I'm just wondering if we should put a time frame on that condition.

CHAIRPERSON KONYK: Let's make it the 60 days so that if not he has to come back. How's that? Can we change that?

MR. SEAMAN: Yeah.

CHAIRPERSON KONYK: If he can resolve it within 60 days, that's fine. If not, he'll be at the September meeting -- or August meeting.

MR. PUZZITIELLO: There are other conditions on there that he has to get a permit within -- there are other conditions that he get a permit within a year or something?

MR. SEAMAN: Is 60 days sufficient?

MR. ROBERTS: Yeah, that's reasonable.

MR. SEAMAN: So if we say within 60 days, and whatever that date is --

CHAIRPERSON KONYK: And then say otherwise applicant will come to the August meeting. That way you don't have to start all over again.

MR. JACOBS: Can he get a permit without resolution of the base line issue?

MR. SEAMAN: This variance is subject to

applicant obtaining a base building line waiver or approval from Engineering within 60 days, period.

CHAIRPERSON KONYK: Period. Is that spelled out, or is that just a dot?

MR. SEAMAN: P-e-r-i-o-d.

CHAIRPERSON KONYK: Okay.

MR. SEAMAN: All right, Larry?

MR. ROBERTS: Yes.

MR. SEAMAN: Shall I read it one more time?

CHAIRPERSON KONYK: Yeah, read it one more time.

MR. SEAMAN: This variance is subject to the applicant obtaining a base building line waiver or approval from Engineering that the variance can be granted.

Man, that doesn't sound right.

This variance is subject -- no, within 60 --

CHAIRPERSON KONYK: Is that part of it, damn, this doesn't sound right? Okay. How about this.

This variance is subject to the applicant obtaining a waiver from the Engineering Department for the base building line --

MR. JACOBS: Within 60 days.

CHAIRPERSON KONYK: -- within 60 days; otherwise, it is reordered to the August meeting. How does that sound?

MR. SEAMAN: Are you -- you must be a lawyer.

CHAIRPERSON KONYK: Oh, no. The 130,000 bucks I've been spending is starting to pay off, I guess.

MR. PUZZITIELLO: That's on the record.

CHAIRPERSON KONYK: Uh-oh, it's on the record? Well, I guess it is. That was for law school.

MR. SEAMAN: I'll read it one more time.

This variance is subject to the applicant obtaining a waiver from the base building line from Engineering within 60 days or reordered to -- or returned to the Board of Adjustment for --

CHAIRPERSON KONYK: You didn't say what I said.

MR. PUZZITIELLO: Were you listening?

MR. SEAMAN: My face is getting red here.

CHAIRPERSON KONYK: At least your hair isn't red anymore.

MR. SEAMAN: This variance is subject to the applicant obtaining a waiver from -- a waiver of --

CHAIRPERSON KONYK: Of the base building line from the Engineering.

MR. SEAMAN: -- within 60 days --

CHAIRPERSON KONYK: Or reordered to the August -- or this variance will be reordered to the August 2006 meeting.

VICE CHAIRMAN BASEHART: I think it should just be a new sentence.

CHAIRPERSON KONYK: Oh, no, they -- no. They like them to go on and on and on.

MR. SEAMAN: Or the applicant shall return to the Board of Adjustment for --

CHAIRPERSON KONYK: Just return. That's all. We don't have to tell what for.

MR. ROBERTS: Doesn't take this long to get a base building line waiver.

MR. PUZZITIELLO: He could have had it by now.

CHAIRPERSON KONYK: All right. When should he see you? Like after this meeting?

MR. ROBERTS: At his convenience.

CHAIRPERSON KONYK: Today would be okay?

MR. ROESCH: Yes.

CHAIRPERSON KONYK: I mean I'm asking him. I know it's okay for you.

MR. ROBERTS: My calendar's full for the rest of the day. It's probably going to be Tuesday of next week.

CHAIRPERSON KONYK: What if this meeting ends earlier than you anticipated?

MR. ROBERTS: It's full.

MR. ROESCH: All right. I will call and leave a message.

MR. ROBERTS: Tuesday would be fine.

MR. ROESCH: Okay. Thank you.

CHAIRPERSON KONYK: Okay. So you understand what -- that added condition and agree with it?

MR. ROESCH: Yes.

CHAIRPERSON KONYK: Any Board member object to this item, having a condition added and et cetera, et cetera?

(No response)

CHAIRPERSON KONYK: Seeing none, can we --

MS. CARDONE: Why don't we just make a motion to --

CHAIRPERSON KONYK: Yeah, that's what I'm going to do. Right. That's my next thing. Go.

MS. CARDONE: Madam Chairman, I move that we approve BofA 2006-00723 with the four conditions that have been listed.

VICE CHAIRMAN BASEHART: Second.

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

Any discussion?

(No response)

CHAIRPERSON KONYK: All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

MR. ROESCH: Thank you.

MR. PUZZITIELLO: I hope you get that wording cleaned up because we're going to have it again.

CHAIRPERSON KONYK: Yeah, right.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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 **(6/15/2007)**, the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)
3. By **06/15/2007**, the applicant shall plant a ficus hedge against the privacy wall to mitigate any impact the wall might have on the surrounding area. (ZONING: LANDSCAPE: ZONING)
4. This variance is subject to the applicant obtaining a waiver of the base building line from the Engineering Department within 60 days or the applicant shall return to the Board of Adjustment.

CHAIRPERSON KONYK: BofA 2006-00700,  
Ernest and Sophie Marks.  
Are you -- is the applicant present yet?  
MR. CEARLEY: Not yet.  
CHAIRPERSON KONYK: Not yet. Okay.

CHAIRPERSON KONYK: BofA 2006-00741, Eddie Gonzalez.  
If the staff would like to read the legal.  
MR. SEAMAN: Yeah. Eddie Gonzalez, owner, to allow a proposed addition to encroach into the required side and front setbacks. Location, 4790 Palm Way, approximately 0.2 miles east of Haverhill Road and approximately 0.1 mile south of Dolphin Drive within the Biltmore Terrace subdivision in the AR zoning district, Petition

2006-250.

CHAIRPERSON KONYK: Okay. So can we cut to the chase? Back to Larry on this one, or do we need to do something different?

MR. SEAMAN: Well, I'm seeing here that we do have something from the Land Development Department saying that no waiver's required for First Terrace, and then the other front setback, we're really dealing with an existing structure.

So whether or not there's a base building line waiver granted or not granted, I'm not sure how that affects, you know, what --

MR. PUZZITIELLO: The main -- the existing structure's already --

MR. SEAMAN: It's already there. He's adding onto -- he's putting a proposed addition onto the structure, the residence.

MR. PUZZITIELLO: But it's not encroaching any further than the existing building on the side?

MR. SEAMAN: Actually, he's further away than the original building's facade.

So if we need to get a base building line waiver --

MR. ROBERTS: Just make it -- if we could, just make it subject to looking at a base building line waiver, particularly along First Terrace. I think that can be granted with no problem.

MR. SEAMAN: And I think if we do that, we need to say that that will vary the actual footage for the variance.

CHAIRPERSON KONYK: You need to speak in the mic because she can't hear you. I mean, really, we have all these microphones. Let's use them.

MR. SEAMAN: What I'm trying to say is if we're going to do that, I think that's fine, but we also need to be flexible in the conditions saying that if the base building line waiver is granted or isn't granted, that's going to change the numerical value of the variance.

We need to calculate that, so --

MR. PUZZITIELLO: But the actual location --

MR. SEAMAN: Is the site, doesn't make any difference.

MR. PUZZITIELLO: -- doesn't change so it's just --

MR. SEAMAN: Doesn't make any difference.

CHAIRPERSON KONYK: So what do you want to do?

MR. SEAMAN: I'd ask Larry, where would -- where would it be established? You need 30 feet originally.

MR. ROBERTS: There's 10 -- each of those streets, Palm Way and First Terrace, has a 10-foot base building line inside the right-of-way 10 feet so what it's going to do is change the amount of variance.

VICE CHAIRMAN BASEHART: No, it's -- I mean the issue -- okay. It's going to change the front setback variance, but we -- there was no



side setback variance even -- side corner setback variance even advertised.

So basically if he doesn't get a base building line waiver on First Street or First Terrace, whatever it is, First --

MR. GONZALEZ: First Terrace.

VICE CHAIRMAN BASEHART: First Terrace, then he needs a variance which hasn't been advertised.

MR. SEAMAN: Because we were told he didn't need a base building line waiver --

VICE CHAIRMAN BASEHART: Right.

MR. SEAMAN: -- based on the letter so we didn't advertise it.

VICE CHAIRMAN BASEHART: I'm sure that they'll consider that when they consider this base building line waiver, that they said they didn't need the right-of-way, anyway, right?

MR. GONZALEZ: Can I speak?

CHAIRPERSON KONYK: Not yet. I think it's better that you don't right now, honestly, for you. Hold on one more second.

VICE CHAIRMAN BASEHART: All right. I --

CHAIRPERSON KONYK: No, I'm just kidding.

You can speak if you want.

MR. GONZALEZ: I -- we've been -- I've been about three times in Engineering Department for that waiver, and they said that I didn't need it because from the centerline to the -- to the proposed I have 55.6 or 56.5, I can't remember right now, and the -- and I have -- because these are AR zoned, I have to go 30 feet inside.

So it leave me with 25 feet, and the setback from the side is 20 percent of the width of the lot that it means is 22 feet. So that still give me three feet. That's what I understood from the three times that I went to the Engineering Department.

VICE CHAIRMAN BASEHART: Yeah, in AR non-conforming lots the setbacks are calculated on a percentage basis.

MR. ROBERTS: My comment wasn't on the variance itself, it's on the site plan not -- I didn't -- I don't know what the setbacks are on that particular lot, but the base building lines are not shown on either of those on the site plan.

CHAIRPERSON KONYK: So you're not saying that they're not meeting it --

MR. ROBERTS: No.

CHAIRPERSON KONYK: -- you're just saying they're not showing it?

MR. ROBERTS: Right.

CHAIRPERSON KONYK: So can we have him resubmit it with them showing it?

MR. SEAMAN: It'd be --

MR. ROBERTS: Then it would be Zoning's consideration as to whether that would be recommended.

CHAIRPERSON KONYK: Got you.

MR. SEAMAN: I mean if we knew what -- if the base building line waiver would be --

CHAIRPERSON KONYK: We don't know that he

needs one.

MR. PUZZITIELLO: First Terrace is a 40-foot right-of-way, right? So you're questioning is there an additional --

MR. ROBERTS: Ten feet.

MR. PUZZITIELLO: -- 10 feet on either side?

MR. ROBERTS: Actually, it's the 10 feet on each of those roads.

Now, if you received some kind of indication from Engineering that you didn't require a variance for your setback, that might be something they might have advised you on. I don't know.

But the fact that you've got a base building line requires you to measure your setbacks from that base building line, not from the right-of-way, and we're showing all our dimensions here from the right-of-way.

It's Zoning's consideration as to whether those are adequate setbacks or not.

VICE CHAIRMAN BASEHART: Alan, can you --

CHAIRPERSON KONYK: I see what you're saying.

MR. PUZZITIELLO: So if he's got another 10-foot base building line, that means the side yard setback is 44 feet; correct, roughly?

MR. SEAMAN: His side corner setback percentage-wise is 22 feet. That's what he's required to have.

MR. PUZZITIELLO: Right, but he's going to -- but on his drawing it's showing 54 now. If you got another 10-foot, it's --

MR. SEAMAN: We're talking about First Terrace.

MR. PUZZITIELLO: Right.

MR. SEAMAN: The side corner, which we have a -- we have a letter that says no base building line is -- you know, there's no waiver, nothing's required.

So we didn't advertise that variance because he was fine.

VICE CHAIRMAN BASEHART: But does he need a variance if he needs the --

MR. SEAMAN: If he even -- if they took 10 more feet from his property? No.

VICE CHAIRMAN BASEHART: All right. So the --

MR. PUZZITIELLO: No, he's still got 40 --

MR. SEAMAN: He's still got 24 feet, so it's --

VICE CHAIRMAN BASEHART: It's irrelevant.

MR. PUZZITIELLO: Right.

MR. SEAMAN: Okay. So we're really talking about Palm Way then, the front setback.

VICE CHAIRMAN BASEHART: All right.

MR. SEAMAN: They didn't give us a waiver for that so, again, it'd be 10 feet -- at the most, 10 feet further into his property which would suggest he's got 32.77 rather than 42 -- 32.77, and what's required is 52, so 32.77 from 52.5 -- who's the math wizard -- we would just

change that variance on there -- 52.5 minus 32.77.

CHAIRPERSON KONYK: It's like 20 feet.

MR. SEAMAN: So we can change his variance now to meet the -- instead of it being 17.56, give him a variance of 20 feet plus whatever it is.

MR. PUZZITIELLO: And the addition sits back further than the main existing house now so it's a greater variance than what the main house already has.

MR. SEAMAN: All we're doing is playing with figures here.

MR. PUZZITIELLO: Right.

VICE CHAIRMAN BASEHART: Right.

Madam Chair, I'd like to make a motion that we approve variance application BA2006-00741 with a front setback variance of 21 feet.

MR. SEAMAN: That covers it.

CHAIRPERSON KONYK: Yeah.

VICE CHAIRMAN BASEHART: And, of course, the side interior setback remains the same, subject to the conditions that are in the staff report.

MR. PUZZITIELLO: Second.

CHAIRPERSON KONYK: Okay. We have a motion by Mr. Basehart, a second by Mr. Puzzitiello.

Any discussion?

(No response)

CHAIRPERSON KONYK: All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Your motion carries unanimously.

You have received your variance.

MR. GONZALEZ: Thank you.

MR. PUZZITIELLO: Got to make you sweat a little bit.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/2007**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Okay. Did Ernest or Sophie Marks arrive yet?

MR. SEAMAN: No.

CHAIRPERSON KONYK: Okay. Next item on the regular agenda is BofA 2006-00578, Kilday and Associates, agent for Tree Brothers, Limited, owner, to allow an existing single family dwelling to encroach into the required rear setback.

Staff is recommending denial without prejudice, in part, and approval with conditions, in part.

Is the applicant present?

You're supposed to come up here. Has it been that long?

MR. KILDAY: I thought --

CHAIRPERSON KONYK: Hi. Like the tie.

MR. KILDAY: Thanks. I am out of practice, obviously, seeing I'm the only thing that didn't make it to the consent agenda today.

My name is Kieran Kilday, Kilday and Associates Land Planning, and we represent the petitioner.

CHAIRPERSON KONYK: Okay. Can staff introduce this item.

MS. OWENSBY: Okay. This is Kilday and Associates, agent, for Tree Brothers, Limited, owner, to allow an existing single family dwelling to encroach into the required rear setback to allow a six-foot vinyl-coated chain link fence on the property line and to allow 100 percent of the plant material installed on the interior side of the fence.

It's located at 11061 Indiantown Road, approximately 0.9 mile east of Mack Dairy Road and approximately 100 feet north of Indiantown Road within the Philo Farms subdivision and in the AR Zoning District. It's related to Petition 2006-185.

CHAIRPERSON KONYK: Okay. Staff is recommending denial without prejudice, in part, and approval with conditions, in part.

Do you want to bring us up to speed on this?

MR. KILDAY: Yes. Thank you. Kieran Kilday.

I want to just tell you what the project is although you're only acting on the variance.

We are in the process of requesting a recreational vehicle park approval on a 17-acre parcel owned by Mr. Paul Thomas, and Mr. Thomas is

here, and this aerial here I put up on the board, just so you can see the site, is currently Mr. Thomas' home, and it is also a commercial nursery.

As you can see, the area has been cleared because of its nursery uses through the years, and Mr. Thomas' home is actually up on the north part of the property.

As part of the request for a recreational vehicle park, and this is a site plan of the park, there is a requirement that there be a buffer around the park, and the buffer, we meet all the requirements of it with one exception being that his house, which the Board of Adjustment granted, and some of you have been on this Board so long you may have been here, but I doubt it -- I think it was 1983 -- a variance on his home --

CHAIRPERSON KONYK: I can assure you I was not here then.

MR. KILDAY: There we go. Not old enough, right?

Anyhow, I -- probably Mr. Basehart was sitting over here on the side table during that time.

But this was a structure that was on the site. It was converted into a home, and Mr. Thomas has lived there ever since.

Now because we are going for a recreational vehicle park, there's a different setback, which is less than the original setback, but it was determined we needed to reverify the variance, and staff is recommending approval.

The other variances is -- and we accept that.

The other variances are the buffer itself, and the issue is that this property is surrounded by property that was purchased by the County Commissioners' Department of Environmental Resource Management in the past couple of years, and so when we were going through the process, we looked at the requirements, and normally a wall is to -- like a sound barrier and incompatibility, and we said, well, a campground next to a natural area seems like an area that wouldn't require a wall, and we did call ERM and verify that ERM themselves never put in walls around their areas, but they put in fences, and so we applied for a variance to put in the fence and to take our landscaping and put it on our side of the fence as there's no purpose to landscaping against the natural area. And staff has recommended moving the landscaping.

So the only issue now is whether we do a fence or a wall, and we believe that the fence -- a fence is appropriate, given these conditions. We see a wall as being nothing but additional cost, and we see the fence and landscaping and the idea that this would be a campground as being natural area, would make more sense.

That being the case, I need to give you a little bit of the history, and one of the issues is the reason for the staff denial is really predicated by the Department of Environmental

Resource Management. I mean they've -- they've made the judgment that they say a fence is better than a wall.

But they make another judgment, and on the second page in the staff report their real recommendation is that we aren't allowed anything on this site.

This says, "Environmental Resources recommends no further development of the site be permitted," and what I need to state on the record, and I'll pass these out to you all --

CHAIRPERSON KONYK: We didn't ask him that.

MR. KILDAY: -- is we believe that the Environmental Resource Management have a direct conflict of interest.

Well, you'll see there is an article from May of last year at which time they were confident they were buying this property from Mr. Thomas, and in fact while Mr. Thomas did allow them to do appraisals and did have discussions, that sale never took place.

At that time they wanted to put a fire station on a portion of the site, and Environmental Resource Management owned the remainder of the property, and you can see Mr. Waleski, who's the Director, saying it's a done deal, we got a willing seller, it's going to happen.

It didn't happen, and we really look at this recommendation as punishment, and we know we're going to have additional issues when we go before the Zoning because ERM would dearly love this property.

Unfortunately, Mr. Thomas bought it in 1983, and he's been living there for 23 years, and they haven't come to terms on it.

So I say that up front. It concerns us, concerns me, and I'm calm about it. I can't let Mr. Thomas talk at all today about it because his attitude is even more because it's a personal issue with him.

But I'd like to talk about the merits. The reason that they have given is that because every seven or eight years they do controlled burns in this area, that a wall somehow is better than a fence, and so we'll pass this out to you.

CHAIRPERSON KONYK: Okay. How many more things are you going to give us?

MR. PUZZITIELLO: We need to --

CHAIRPERSON KONYK: How about if we accept everything that you are going to give us now into the record.

MR. KILDAY: Right.

CHAIRPERSON KONYK: Okay. So Mr. Kilday has three items for us?

MR. PUZZITIELLO: I make a motion we accept them.

CHAIRPERSON KONYK: A motion by Mr. Puzzitiello.

VICE CHAIRMAN BASEHART: Second.

CHAIRPERSON KONYK: Second by Mr.

Basehart.

All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Motion carries.

We've accepted three items into the record.

MR. KILDAY: What I -- what I've given you is basically an ERM production as to the -- as to the idea of prescribed burns -- oh, I gave you four items.

CHAIRPERSON KONYK: I don't think you meant to give us that. Did you?

MR. KILDAY: I am going to -- I'll give you a fourth item as well, and I'll explain it.

CHAIRPERSON KONYK: Is that only -- you only have one copy of that? Give that to staff then.

Okay. We received four items into the record.

MR. PUZZITIELLO: Motion to --

CHAIRPERSON KONYK: Motion by Mr. Puzzitiello.

VICE CHAIRMAN BASEHART: Second.

CHAIRPERSON KONYK: Second by Mr.

Basehart.

All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed.

(No response)

CHAIRPERSON KONYK: Motion carries unanimously.

MR. KILDAY: Basically, what the items that I just gave you was -- I gave you the newspaper article which we discussed, and I gave you the ERM's brochure on what they call prescribed burning which describes prescribed burning as something normal, natural, heavily permitted, requires a plan, a permission, and it requires -- this is the book of rules on prescribed burning that everything's done safely because obviously you don't go in and do prescribed burning if you think you're going to burn somebody's house down, and that's the implicit thing in the staff recommendation.

The second item I gave you is a map, and the map shows a -- shows all the properties that ERM has, and it has little stars on the map, and the map says these are all areas of prescribed burning.

One of the areas, as an example, is on U.S. 1, the Juno area, which was burned last year.

It's got The Bluffs, a residential community to the north, and other residential communities -- to the south, and others to the north, and the fact of the matter is there is no wall requirement in some cases.

In the case of The Bluffs there is a wall because it happens to be there. In other cases there are no walls, and the County doesn't build walls.

So I think the essence is that you have to weigh the evidence, and the evidence is we don't

want him to have a fence, but he ought to have a wall because we're going to do a prescribed burning every seven or eight years, even though we're telling you that these are very safe functions. And then there's an assumption saying well, walls are going to somehow help.

Well, the issue is that -- the issue is that the prescribed burning around these properties require that there be a fire break built, and in fact the County has come out and cleared a fire break around this site already, a significant fire break.

So if there's going to be any danger, the danger is ashes, and the ashes aren't going to be contained by the fence, and they're not going to be contained by the wall. That would be the issue where the wind picked up, although they tell you very safely they won't light the fire if there's that danger, but it's not going to be something that a six-foot wall is going to make the least bit of difference.

Earlier this year, and then I'll sum up, while they were clearing this area around Mr. Thomas' house, lo and behold, a fire started.

Now, we all know how it all got started, but there's all kinds of grinding going on back here (indicating), and Mr. Thomas allowed the Fire Department access through his property to get access into this greater site.

Mr. Thomas will be happy to agree to a condition that he provide a gate in the fence and that he provide an access to the north part of his site for any future use to ERM, but the idea they build a wall we just think is -- it's really requesting much.

It's -- it's -- he was here. They weren't here. They've come here. They want to do something with the property. If what they want to do imposes a potential danger, then it's ERM's responsibility to build a wall, and that's not their policy. They don't build walls anywhere. They put in fences.

So to ask an owner to now be responsible for a wall after the fact is just an unfair turning of the tables. So we would ask that you approve our variance.

CHAIRPERSON KONYK: Staff, have anything to add?

MS. OWENSBY: This is an Environmental Resources issue, and I think they would like to speak.

CHAIRPERSON KONYK: Name for the record.

MR. KRAUS: Robert Kraus, Environmental Resources Management.

What we're here to talk about is the variances. The appropriateness of this use and the intensity of the use will all be issues that the Board of County Commissioners will be looking at in due time and making the decision of in due time.

Assuming that they do approve it, that's where the variances come into effect.



The three variances, the one about the vegetation is no concern to us. The one about the building setback is some concern because we think the building is more of a fire hazard now in this location; however, it is a preexisting building. It was there before we started our prescribed burn program so we acknowledge that.

The final, third one, is the difference between the fence and the wall. The fence will give absolutely no protection from a burn while a wall will give no guarantee, but at least some minimal protection against a ground burn.

There is no guarantee when you're doing a prescribed burn. That is why they're called prescribed burns. There are specific requirements we -- in the environment that have to be going on for us to light this up.

This is going to be a horrendous management problem for us because we surround this property on three sides. That means the wind has to come only from one direction, the south, and to have those particular weather conditions is, I would say, very rare, and we're going to have to be able to light this up almost immediately when the proper weather conditions arise.

You know, we can't guarantee what is going to happen with that fire once that starts, and this is why we're suggesting that a wall in this situation may give them at least some protection while a fence will give them none at all.

CHAIRPERSON KONYK: So you're saying that because you'd have to only have the wind coming from the south the likelihood of you lighting a fire is very rare?

MR. KRAUS: It's -- you know, we don't -- I don't have my burn coordinator with me here today, but he can go into depth on the requirements we need to, before we start up a burn.

CHAIRPERSON KONYK: Okay. So what you're saying, though, is that even though Mr. Kilday said they may burn it every seven to eight years, it could actually be longer than that?

MR. KRAUS: We don't know, and we can't predict that.

MR. ROBBINS: I apologize. My name is Rob Robbins. I'm the Deputy Director for Environmental Resources Management.

And generally what Mr. Kilday says is true. There's many safety requirements in a prescribed burn, and ERM's record in prescribed burns is excellent.

This really comes down to an issue of a margin of safety that we can introduce --

CHAIRPERSON KONYK: I really can't hear you. I'm so sorry. Maybe that mic needs to come forward?

Are you having trouble, Bunny?

MR. ROBBINS: Maybe I need to go --

CHAIRPERSON KONYK: There you go.

MR. ROBBINS: -- get forward. I'm sorry. Were you able to get --

CHAIRPERSON KONYK: Yeah, she got it. It was just -- I could she was straining.

MR. ROBBINS: Okay. The question is one of a margin of safety. The periodicity of the burns, as we do burn the entire property on an eight-year cycle, but we can't do it all at once. It's too large of a fire to manage. So we generally do portions of the property at a time, which means we're in a burn cycle of every two to three years, is our preference.

We're not going to burn when the winds are unfavorable to a burn, but in any case, when we're going to be burning, we want the greatest margin of safety that we can provide. A wall provides a little bit more margin of safety than a chain link fence, and really, it's that simple.

CHAIRPERSON KONYK: So everywhere you burn you have a wall?

MR. ROBBINS: No, ma'am.

CHAIRPERSON KONYK: Okay.

MR. ROBBINS: No, ma'am. It's just that if we have an opportunity to introduce a margin of safety, it's appropriate if somebody -- you know, if that's the requirements of the Code.

If somebody wants to reduce that margin of safety, in this particular case, it gives us great heartburn.

CHAIRPERSON KONYK: Okay. Thank you.

MR. JACOBS: What would the wall be made of?

MS. OWENSBY: The Code requires it -- because this is in the rural tier, it requires it to be constructed of natural materials.

CHAIRPERSON KONYK: Like wood?

MR. JACOBS: Would the natural material be burnable?

CHAIRPERSON KONYK: Okay.

MS. OWENSBY: The only -- the only natural material I could think of for a wall would be stone. Maybe the applicant could come up with other alternatives.

CHAIRPERSON KONYK: Oh, maybe you can come down to Miami and get some of that nice coral rock. That would probably be cost-effective.

MR. PUZZITIELLO: For a trailer park, yeah.

CHAIRPERSON KONYK: I have nothing more to say.

VICE CHAIRMAN BASEHART: Is there any --

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

No, you're not a member of the public, are you? Oh, isn't he the applicant?

MR. KILDAY: Well, he put a card in.

CHAIRPERSON KONYK: I don't care. He's --

MR. CULPEPPER: Whatever you want. I --

CHAIRPERSON KONYK: Is he the applicant though?

VICE CHAIRMAN BASEHART: He wants to speak.

MR. KILDAY: No. He's Mr. Bob Culpepper.

CHAIRPERSON KONYK: Okay. Come on

forward. I thought you weren't allowing him to speak.

MR. CULPEPPER: No, no, no, that's --

CHAIRPERSON KONYK: Okay. You sit down. I just was, you know, trying to avoid an issue here.

MR. CULPEPPER: Thank you very much.

CHAIRPERSON KONYK: Your name for the record, and you have been sworn in?

MR. CULPEPPER: Yes, ma'am. For the record, my name is Robert Culpepper and 101 Park Street in Jupiter.

Speak just a minute about this prescribed burn. Kerry showed you the great big book which is -- which actually is a prescribed burning course that all people that are going to be certified to burn have to take that six-day course under the direction of the Department of Forestry, okay, and as everybody has said, it's quite extensive.

I have one recommendation, and I'll start from the bottom up, and then I'll try to, hopefully, give you just a little bit of history.

In response to my good friend Rob Robbins here about the margin of safety and throughout your document you -- the staff has alluded at least two or three different times to public health and safety, okay, and those are some of the main concerns, and certainly that they're concerns of Rob Robbins here. And the margin of safety ought to be don't burn. Okay.

This area -- I don't know what all he's got here, but this entire area, those of you that are familiar with it, and I know Ms. Cardone and some of the others here are very, very familiar with the area, and it's called the old plat was Philo Farms underneath the plat, but now we all refer to it as Cypress Creek.

This was purchased about three years ago this past January, and the Martin County, Palm Beach County line divides about 3,000 acres of land, about 1,000 of it, more or less, is in Palm Beach County. About 2,000 of it is up in Martin County.

South Florida Water Management District and Martin County own the -- all of the part in Martin County. Palm Beach County owns the part and south.

All of the land is -- it's all pine trees and palmettos. It's the same -- same type land that's surrounded -- right now it's surrounded on three sides by residential communities, a landing strip to the north and a little nursery school immediately across the road to the south, a shopping center. You have an awful, awful lot of things to consider. It's not just the fire that you're concerned about on these -- actually, it's a forest fire. You call it a prescribed burn, controlled burn, whatever you want to call it, it's a dad-blamed forest fire.

And what it was up there in Jonathan Dickinson State Park, they had one about six

months ago, a prescribed burn, they were going to burn off about 150 acres.

The wind changed on them, and it ended up three days and three nights later, jumped over U.S. 1 and was within -- they had every fire truck that they could possibly muster, and it jumped within 100 yards of a housing development over there, Jupiter Hills and a couple of others over there.

So what I would respectfully suggest to Mr. Robbins and to ERM or anyone else -- let me say one other thing.

My family -- and I'll be finished in just a couple of minutes. My family leased all of this land for cattle grazing for 10 years, all over -- it was over 3,000 acres. I'm certified to burn. Okay. I have a number. I call the Forestry Service, and I can burn anywhere in the State of Florida.

We chose not to burn on this property from 1985 to 1995. We maintained the property through roller chopping and through mowing with big mowing machines. We maintained it for cattle grazing for 10 years.

They don't have to go in there and burn, and they especially do not have to burn around in this particular area. They've set -- they say in their documentation that they set up in management areas. They've got about 1,000 acres, and they say they got, I think about seven or eight different management areas so they probably got 100 acres or more in each of these.

A suggestion, if they're just bound and determined to do burning in here, one of the management areas ought to be around here, and they ought to do that mechanically and not get into burning.

But, nevertheless, all of the smoke and the ash and all of that stuff is going to go for miles and miles and miles around, and that's the reason that myself and my family chose not to burn in there but to maintain it another way.

That's the same way that South Florida and Martin County are maintaining it on their part of the land. They don't do prescribed burning. They have gone in there, and they've done it mechanically, and it works fine.

So my suggestion or recommendation to ERM is not to maintain it through prescribed burning or any other kind of burning out there. It's just too close in proximity to too many houses.

Thank you very much.

CHAIRPERSON KONYK: Thank you.

Are you a member of the public that wants to speak?

MS. TAYLOR: Yes, I am.

CHAIRPERSON KONYK: Could we have your name for the record, come forward.

MS. TAYLOR: My name is Lois Taylor --

CHAIRPERSON KONYK: Oh, I'm sorry.

MS. TAYLOR: Okay. My name is Lois Taylor, and I'm a resident in the Jupiter Farms

area.

CHAIRPERSON KONYK: And you were sworn in; correct?

MS. TAYLOR: No.

CHAIRPERSON KONYK: Okay. Can we swear her in?

(Whereupon, speaker was sworn in by Ms. Springer.)

MS. TAYLOR: My comment is the use that's coming up may or may not be appropriate for a property that is surrounded on three sides by a preserve of natural area, and, therefore, I would think if the Code requires a wall, we should stay with a wall until such time as we find out from the due process and the approval process whether or not that is a good use for that property.

CHAIRPERSON KONYK: Okay. Thank you.

Any other members of the public wish to speak on this item?

(No response)

CHAIRPERSON KONYK: Applicant, did you have anything you want to add at this point?

MR. KILDAY: Just very, very briefly that nobody's really testified whether a six-foot wall is going to have any more benefit than a six-foot fence. It's kind of a guess that well, maybe it could, but there hasn't been really any testimony to that.

As it relates to Jonathan Dickinson State Park where they do have burning, also has a campground. I mean, it's the most natural thing in the world to have a campground next to a natural area.

What we're saying here is that -- I mean everything that's -- you've heard is that a wall's really not going to make any difference if it jumps, and so denying it on that basis and calling it a margin of safety -- I really think this is more to do with something that's not being said here, and that is make it so expensive for Mr. Thomas that he has no choice but to sell this property to ERM, and it's unfortunate I have to say that.

Thank you.

MR. JACOBS: Excuse me. Your basic objection to the wall is one of cost; right?

MR. KILDAY: No, it's a -- our basic objection is one of the aesthetics. When we came in with the recreational vehicle, we had thought that this is a great place.

This -- when the County talks about buying it, they're talking about potentially putting a visitor center and park in here for people to come and do the trails, and we have the same view, is we want to keep it a natural area.

We have no problem putting in all the landscaping, but we see a wall as just adding an urban element that we don't think goes with the campground.

But it is the cost, as well.

MR. JACOBS: Well, your point is that the *sub silentio* motivation here was to try and make

the property so expensive that it would be sold.

MR. KILDAY: Well, that -- I think that's what ERM's real objection is, yes. I don't think it's a safety objection at all.

MR. JACOBS: What is the cost, extra cost, involved?

MR. KILDAY: In a wall versus a fence?

MR. JACOBS: Uh-huh.

MR. KILDAY: It probably is -- probably in the nature of 10 to 15 times more expensive than a fence. It's that big a difference.

And then we have a staff condition saying that we build a wall that is a natural, non-combustible material, and even though you said as a joke, that's exactly what I see them coming up, saying, well, it can't be just a regular wall. Now it needs to be a wall that has to be all special rock so it looks like you're in Vermont or something, you know.

I don't where we're going to get that.

CHAIRPERSON KONYK: Or Virginia.

MR. KILDAY: Right.

CHAIRPERSON KONYK: Well, any other comments from staff?

(No response)

CHAIRPERSON KONYK: Anybody prepared to make a motion on this item?

VICE CHAIRMAN BASEHART: Well, I guess I am.

Okay. Now, staff is recommending approval of the setback variance for the house, but you're now recommending approval of the landscape variance to --

MS. OWENSBY: Yes, we are. We do agree with moving the landscaping to the interior side of the wall --

VICE CHAIRMAN BASEHART: Okay, good.

MS. OWENSBY: -- because then it would not be exposed to the fire.

VICE CHAIRMAN BASEHART: All right. But you're not supporting the fence variance?

MS. OWENSBY: That's correct.

VICE CHAIRMAN BASEHART: Okay. I'm going to make a motion that we approve all three variances.

I think in reality, you know, the burn issue, notwithstanding that -- well, talking about the burn issue, I think I agree with Mr. Culpepper that there are other ways to manage the area around active land use, and looking at that aerial, you know, I think a much more significant concern is on the south side of the road, and it's a residential area. It's loaded with houses, you know, and the proposed use here I think is an ideal use.

And I realize that we are not a land use board, and we're not going to make the decision on whether the -- this is an appropriate land use, but, you know, with respect to any dangers that might be associated with burns on a land use -- one thing about a recreational vehicle park is if there's a planned burn, they could leave.

I mean, the management of the park could be informed. They could close down for a day or two around a scheduled burn, and then basically you've got an empty -- the only thing that would be in jeopardy on the property would be the caretaker's residence which is already a house that's already on the property.

So I don't think you're increasing any risk to anybody or anything with this land use, but, again, that's not -- that's not our determination.

With respect to the wall versus the fence, you know, I think one of the -- one of the issues with preserved land is that it's purchased to preserve for the benefit of the public, and I think the public being able to interact with it and to see it, you know, is something that should be an objective of any environmental agencies. And you put a wall around a use like this, and you're robbing the public of the ability to, you know, really to feel like they're a part of the surrounding environment.

I think the fence is a better alternative from that point of view, so.

And I mean I've seen -- I've seen controlled burns many times, and I don't think a six-foot barrier, whether it be a wall or a fence, you know, or even a -- even a six-foot high berm is going to provide any significant protection from a burn.

So that's why I think other alternatives, and especially in looking at this -- looking at the aerial that's up there now, you know, you got substantial residential to the west, you got substantial residential to the south, that I think is more of an issue in terms of safety than this use.

And looking at the seven criteria that are necessary to support a variance, I think the applicant has met all of them.

So I'm making a motion for approval of all three variances on that basis.

MS. STEPHENSON: I second it.

MR. JACOBS: Before we vote on that --

CHAIRPERSON KONYK: Wait, wait, wait.

We have a motion by Mr. Basehart, a second by Ms. Stephenson.

Any discussion?

MR. JACOBS: Yes. I have to respectfully disagree with my learned colleague. I agree that anything is possible, and in a -- in a prescribed burn, you know, fire can leap over a lot of things, but obviously there's some protection in having a wall as distinguished from a fence, and I just don't see that having a chain link fence around the property makes you part of nature.

The -- to me I think that there's an element of risk here, and while the wall obviously doesn't completely eliminate the risk, I would have to go with the staff on this one and deny the variance.

VICE CHAIRMAN BASEHART: Okay.

MS. CARDONE: Madam Chairman.

CHAIRPERSON KONYK: Yes.

MS. CARDONE: If I can make a comment.

I'm going to support the motion for a couple of reasons, and not to get on a soapbox because then we'd all be here 'til this afternoon.

But the people who own the land surrounding this gentleman's property have the responsibility to keep your activities safe for the public.

It is not your place, in my mind, to put that burden upon the homeowner because the homeowner has private property rights that should be respected.

So when I consider to myself whether to approve this, or vote to approve this or vote not to, that really is not what's going into my consideration because that should not be borne by this homeowner.

Regarding the fence itself, whether it should be a wall or whether it should be a fence, what I am thinking is that whatever it is, it should be compatible with the area.

I spent two years sitting with a group of people to write a neighborhood plan, and the neighborhood plan for Jupiter Farms over and over and over again speaks of the rural character of the neighborhood and the desire for any use within that area to reflect that.

I don't believe that a concrete wall reflects a rural area. Specifically, the walled and gated and all of those things that were spoken of by the people who live here were not spoken of favorably.

I do believe that a fence with the proper landscaping that reflects the rural character of the area would be a better use. Whether you'll get the approval for an RV park or not, I may agree with and I may not agree with, but that's not up to me.

We're only discussing this variance for the fence, and that is the reason that I'm going to support the motion.

VICE CHAIRMAN BASEHART: If I could before we vote, what I intended to say also, which I forgot to say, you know, is that, you know, my understanding of the purpose of the wall requirement, you know, in the Code generally is to protect adjacent uses from the impact of a potentially not entirely compatible use. That's why shopping centers and other commercial developments adjacent to residential areas have to have a wall.

And in this case I see no potential negative impact from this use on the character or the quality of the adjacent area. So I don't think there's any legitimate basis to require the wall.

CHAIRPERSON KONYK: Any other comments?  
(No response)

CHAIRPERSON KONYK: Okay. All those in favor.



VICE CHAIRMAN BASEHART: Aye.  
MS. CARDONE: Aye.  
MR. PUZZITIELLO: Aye.  
MS. STEPHENSON: Aye.  
CHAIRPERSON KONYK: Aye.  
Opposed.  
MR. JACOBS: No.  
CHAIRPERSON KONYK: Motion -- 5 to 1.  
MR. KILDAY: Thank you.

#### BOARD OF ADJUSTMENT CONDITIONS

1. The existing historic Old Indiantown Road in the northeast section of the subject property is not addressed in this approval. The status of the road will be addressed through the public hearing process. The property owner shall preserve the road until a determination is made by the Board of County Commissioners.  
(ONGOING: ZONING-Zoning)
2. Prior to final DRO Approval, the applicant shall have the approved variances, pursuant BA-2006-578, labeled on the Approved Site Plan. (DRO: ZONING-Zoning)

MR. SANFORD: The applicants Ernest and Sophie Marks arrived.

CHAIRPERSON KONYK: Pardon me?

MR. SANFORD: The applicant Ernie and Sophie Marks --

CHAIRPERSON KONYK: Have arrived? Okay. Is the applicant present? Could you come forward.

MR. SEAMAN: What number is this, do you know?

MR. SANFORD: 06-700.

CHAIRPERSON KONYK: Right. BofA 2006-00700, Ernest and Sophie Marks, to allow a proposed structure to encroach into the required rear setback.

Your name for the record.

MR. MARKS: Ernest Marks.

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

(No response)

CHAIRPERSON KONYK: Mr. Marks, do you understand and agree with -- she's not talking to you, Mr. Marks. I am. She's the recorder.

Do you understand and agree with the conditions?

MR. MARKS: Yes.

CHAIRPERSON KONYK: Okay.

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

(No response)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: No letters.

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

(No response)

CHAIRPERSON KONYK: Seeing none, do we need to make a motion to approve this? Somebody want to make the motion?

MR. PUZZITIELLO: Motion to approve.

CHAIRPERSON KONYK: Motion by Mr. Puzzitiello, second --

MS. STEPHENSON: Second.

CHAIRPERSON KONYK: -- by Ms. Stephenson.

All those in favor.

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Motion carries unanimously.

You have been granted your variance.

MR. MARKS: Thank you.

#### **BOARD OF ADJUSTMENT CONDITIONS**

1. By **06/15/07**, the Approved Site Plan for Valencia Isles PUD (P-2006-700) shall be amended through the DRO section of the Zoning Division to reflect the variance approval pursuant BA-2006-700. (DRO: DATE: ZONING)
2. By **06/15/2007**, 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 (**6/15/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: Is that it? Are we done? I lost my agenda somewhere here. Where's the last page?

Okay. Adjourned.

(Whereupon, the meeting was adjourned at 10:25 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 51, 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 26th day of June, 2006.

---

Sophie M. (Bunny) Springer