

PALM BEACH COUNTY
BOARD OF ADJUSTMENT

Thursday, May 18, 2006
9:00 a.m. - 9:30 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

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

Juanita James, Zoning Tech

Annette Stabilito, Secretary

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P R O C E E D I N G S

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CHAIRPERSON KONYK: Okay. We're going to have a roll call and a declaration of quorum.

Welcome to the Palm Beach County Board of Adjustment meeting, 5/18/2006.

MS. STABILITO: Mr. William Sadoff.
(No response.)

MS. STABILITO: Mr. Raymond Puzzitiello.

MR. PUZZITIELLO: Here.

MS. STABILITO: Ms. Dinah Stephenson.
(No response.)

MS. STABILITO: Chairperson Ms. Chelle Konyk.

CHAIRPERSON KONYK: Here.

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

VICE-CHAIRMAN BASEHART: Here.

MS. STABILITO: Ms. Nancy Cardone.
(No response.)

MS. STABILITO: Mr. Joseph Jacobs.

MR. JACOBS: Here.

MS. STABILITO: Mr. Stanley Misroch.
(No response.)

MS. STABILITO: Mr. Donald Mathis.
(No response.)

CHAIRPERSON KONYK: Okay. We have a quorum. Please join us in the opening prayer.

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

Join us in the Pledge.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON KONYK: I have before me Proof of Publication in the April 30th 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 with or without conditions. The applicant agrees with the conditions, there's no opposition from the public and the Board does not feel that the item warrants a full hearing.

If we are to discover that there is opposition from the public or the Board wants a full hearing or the applicant does not agree with the conditions, that consent item will be re-ordered to the Regular Agenda.

If your item remains on consent after we hear all of the consent items, we will vote to approve the Consent and you may leave.

Items on the Regular Agenda are items that have either been recommended for denial by staff or there is opposition from the public or a Board member feels it warrants a full hearing.

If your item is on the Regular agenda, it will be introduced by staff. The applicant will have an opportunity to give their presentation. We will hear from the public. After the public portion of the hearing is closed, the Board will vote on the item.

Everyone received a copy of the Minutes from the April 20th 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.

MR. JACOBS: Second

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

All those in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: Motion carries unanimously.

Any remarks?

MR. SEAMAN: Yes. I'd like to introduce Joe Cearley who is a new planner with our Board of Adjustment section. He was an intern for a long time; so he just joined us as a Planner 1 about Monday.

CHAIRPERSON KONYK: Welcome. Did you get him in here quickly so he can help you move?

MR. SEAMAN: Yeah, we wanted a young person.

CHAIRPERSON KONYK: You made him permanent so he could help you move? When are we moving?

MR. SEAMAN: July.

CHAIRPERSON KONYK: And when are we moving, the Board itself? Someone said that this room wasn't going to be --

MR. SEAMAN: Well, our section moves in July. I don't know -- we aren't going to have any public hearings in July.

CHAIRPERSON KONYK: Okay.

MR. SEAMAN: So we'll start in August.

CHAIRPERSON KONYK: Any changes or corrections to the Agenda?

MR. SEAMAN: Yes, we do. Item 06-485 has been requested to be a postponement for 30 days.

CHAIRPERSON KONYK: Is that by right?

MR. SEAMAN: This is going to be by vote because we received a letter within five days

before the hearing.

CHAIRPERSON KONYK: Do you want to do that now?

MR. SEAMAN: Sure.

CHAIRPERSON KONYK: Is there anybody here on that item? It's Lucido and Associates for Lost Tree Village? Are you here against it?

UNIDENTIFIED SPEAKER: I'm the applicant.

CHAIRPERSON KONYK: Okay. We just want to make sure there's no one here to protest it or contest it.

Are you here against that?

UNIDENTIFIED SPEAKER: I'm a resident and yes, I'm against it. I don't understand why they need another month. They've been at it for a year.

CHAIRPERSON KONYK: Well, it's not that your -- he can't stop it from postponing it really, can he?

MR. SEAMAN: Well, it's by vote.

MS. HELFANT: It's up to the Board whether or not you want to postpone it.

CHAIRPERSON KONYK: Yeah. First of all, let's ask them why they want to postpone it. Can you give us your name for the record? This guy here first, the applicant.

MR. MATHIS: Hi, Mark Mathis with Lucido and Associates. It is our intent to bring an application to you that has support from the community and we're still working with various members of the community to address their concerns. We'd like additional time to address their concerns.

CHAIRPERSON KONYK: Okay, and it's not an uncommon thing. They want more time to work it out with your community so that there wouldn't be any need for you to come back in opposition.

Are you familiar -- are you on the board there or are you just a member? And your name for the record as well.

MS. HELFANT: Excuse me, Madam Chair. If anyone is going to be speaking, they have to be sworn in.

MR. KERLEY: James Kerley, K-E-R-L-E-Y. No, I'm not on the Board. I've been a resident for 25 years and --

CHAIRPERSON KONYK: Okay. I just need your name.

MR. KERLEY: I've been the president of the --

CHAIRPERSON KONYK: I want your name, that's all.

MR. KERLEY: Okay, fine.

CHAIRPERSON KONYK: Just your name. And you're not on the Board, so all I want to tell you is that you need to get with your Board if you want to be involved in the discussions that are going on within your community with this person that's requesting the variance. I'm sure your Board of Directors would know when the meetings would be if you want to be involved in that. I'm just letting you know.

MR. KERLEY: You mean when it --

CHAIRPERSON KONYK: No, no. They're going to -- the purpose for the postponement is the applicant is trying to work things out with your community. I'm assuming that means he's meeting with your Board of Directors or people in your community.

I'm just suggesting to you that you get with your Board of Directors so that you can be involved in the discussions, and then maybe you'll be aware of what they're doing and you won't feel -- you might still be opposed to it and you're welcome to come back, or you may feel that it's all right.

MR. KERLEY: Well, you know, at the moment the Board of Governors of this club is not really discussing this very thoroughly with any member, and --

CHAIRPERSON KONYK: Okay. That's not --

MR. KERLEY: -- and I have great difficulty understanding the request from Lucido and Associates. It's something in the language you understand. It sure is not in the language that I understand.

CHAIRPERSON KONYK: That's why I'm telling you to get -- give -- excuse me, give this gentleman your name and he will make sure that he contacts you so that if they have any discussions in your community, I'm sure he's willing to do that. Am I correct?

Do you want me to put him under oath for that, Annie? Do you want me to put him under oath?

All right. You guys need to be sworn in 'cause we had so much discussion, so let's go ahead and swear everybody in that may speak today and we'll get it all done at once. I'm sorry to go out of order but I didn't realize we were going to have this much discussion on the postponement.

So, if anybody is going to speak on any item today for any reason, if you would please stand now and be sworn in. If you haven't been sworn in, you can't speak.

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

CHAIRPERSON KONYK: Okay. Now we have them under oath. He's going to call you; correct?

MR. MATHIS: Yes.

CHAIRPERSON KONYK: And he's going to let you know when there's a meeting in your community so that you can be a party to it.

MR. KERLEY: Okay, thank you very much.

CHAIRPERSON KONYK: Okay. No problem. All right. We need to vote on this postponement of BA2006-00485 for a 30-day time certain for June?

MR. PUZZITIELLO: Motion for postponement.

MR. JACOBS: Second.

CHAIRPERSON KONYK: Is that correct though, Alan? June?

MR. SEAMAN: That's correct.

CHAIRPERSON KONYK: Okay. Motion by Mr. Puzzitiello, second by Mr. Jacobs.

All those in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON KONYK: Opposed?

(No response.)

CHAIRPERSON KONYK: This motion carries unanimously. BA2006-00485 will be postponed till the June meeting.

Any other corrections?

MR. SEAMAN: That's it until we get to the conditions.

CHAIRPERSON KONYK: Okay.

MR. BASEHART: Just for the record, I mean, the Board of Governors or whatever they call themselves is the applicant in this case.

MR. SEAMAN: We do have a letter from their association approving and supporting these variances, but apparently some of the folks would like another -- would like to revisit it, and that's why it's being postponed again.

MR. BASEHART: Okay.

CHAIRPERSON KONYK: Probably got a notice and didn't understand it and want more information, and they probably -- the Board feels that they're doing it on behalf of the community and maybe has not had an opportunity to let them know.

MR. SEAMAN: I think it was a 70/30 vote and they're kind of -- the other 30 percent want to talk some more.

CHAIRPERSON KONYK: All right.

CHAIRPERSON KONYK: First item on the agenda is a postponed item, BA2006-00461. Is this by right?

MR. SEAMAN: This is by right, 30 days to June 15th.

CHAIRPERSON KONYK: Thirty days to June 15th, okay.

CHAIRPERSON KONYK: First item on consent is BA2006-00352, Darrel Zbar, owner, to allow a proposed single family dwelling to encroach into the required side interior setback. Is this applicant present?

MR. SANFORD: The applicant called and he's going to be a little late.

CHAIRPERSON KONYK: Okay. So, is there anyone here to speak against this item?

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: No.

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

MR. BASEHART: I assume the applicant has indicated he agrees with these conditions?

MR. SANFORD: Yes.

CHAIRPERSON KONYK: He doesn't get the variance, if he doesn't, though, so it would behoove him to agree; right?

MR. BASEHART: Well, yeah, but they don't always.

CHAIRPERSON KONYK: I understand that. All right.

So this item will remain on consent. If the applicant does arrive, will you let me know before we vote on it? Okay.

CHAIRPERSON KONYK: BA2006-00353, Gloria and Harris Cherkis, to allow a proposed screen enclosure to encroach into the required rear and side setback. Your name for the record?

MRS. CHERKIS: Gloria Cherkis.

MR. CHERKIS: Harris Cherkis.

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

MRS. CHERKIS: Yes.

MR. CHERKIS: Yes.

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

(No response.)

MR. SEAMAN: And if I can add something, Chairman, they left -- they had a 30-day postponement to re-meet with their association, and they do have a new letter from them supporting this variance as well as the pool variance we gave them several months ago.

CHAIRPERSON KONYK: Okay. Any letters other than that?

MR. SEAMAN: No.

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

CHAIRPERSON KONYK: Anyone from the public to speak against this item? Did I ask that already?

(No response.)

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

BOARD OF ADJUSTMENT CONDITIONS

1. By **08/18/2006**, the approved site plan for Jones PUD, POD C (P-95-19), shall be amended to reflect the variance approval pursuant to BA-2005-1697. (DRO: DATE: ZONING)

2. By **08/18/2006**, the applicant shall provide the Building Division with a copy of the Board of Adjustment result letter and a copy of the site plan presented to the Board, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

3. Prior to the Development Order expiration (**05/18/2007**), the project shall have received and passed the first building inspection. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BA2006-00358, Mike Brosseit, I'm not sure how to pronounce the name, owner, to allow an existing accessory structure to encroach. Is the applicant present?

MR. SANFORD: I don't see the applicant.

AUDIENCE MEMBER: Mike Ranger?

MR. SANFORD: No, not Mike Ranger, Mike Brosseit.

MR. SEAMAN: You talked with him?

MR. SANFORD: Well, he knew it was postponed.

CHAIRPERSON KONYK: This isn't postponed.

MR. SANFORD: Oh, it was postponed before from last month it was postponed to this month.

CHAIRPERSON KONYK: Oh, to this month? Okay. Well, have you spoken to this applicant and

he's aware of the condition?

MR. SANFORD: Yes, I have.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: This is mine, there was an error in the legal. That's why it was postponed.

CHAIRPERSON KONYK: I remember that. He was here, wasn't he, last month?

MR. SEAMAN: Yeah.

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. He's probably looking for a parking spot.

BOARD OF ADJUSTMENT CONDITIONS

1. By **5/18/2007**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BA2006-00473, James and Georgina Tillman, to allow a proposed screen enclosure to encroach into an easement.

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

MRS. TILLMAN: Georgina Tillman.

MR. TILLMAN: James Tillman.

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

MR. TILLMAN: Yes, we do.

MRS. TILLMAN: Yes.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: None.

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

(No response.)

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

MRS. TILLMAN: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. By 5/18/2007, 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 applications.

2. Prior to the Development Order expiration (5/18/2007), the project shall have received and passed first building inspection.

CHAIRPERSON KONYK: BA2006-00474, Mike and Claire Ranger, to allow an existing porch to encroach into the required side and front setbacks.

Is the applicant present? Name for the record?

MRS. RANGER: Claire Ranger.

MR. RANGER: Mike Ranger.

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

MR. RANGER: Yes, ma'am.

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: You may have a seat.

BOARD OF ADJUSTMENT CONDITIONS

1. By 5/18/2007, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. By 7/18/2006, the owner shall have submitted for his building permit. (BUILDING: DATE: ZONING)

CHAIRPERSON KONYK: BA2006-00481, Kim Juran, agent for Kelly Tractor, to allow a reduction of a portion of the west incompatibility buffer.

Your name for the record?

MS. JURAN: Kim Juran for Kelly Tractor.

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

MS. JURAN: Yes, I do.

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

(No response.)

CHAIRPERSON KONYK: Any letters?

MR. SEAMAN: There are five; one is in support and four in disapproval. Basically worried about noise and decreasing property values. However, the situation has been the way it is today for how many years?

MS. JURAN: Twenty.

MR. SEAMAN: Twenty years.

MR. PUZZITIELLO: And the west side of Kelly Tractor is --

MS. JURAN: The Town of Palm Beach's yard trash dump site.

CHAIRPERSON KONYK: Use the microphone.

MR. PUZZITIELLO: I'm sorry. The west side of Kelly Tractor is an empty lot and I think it's the police --

MS. JURAN: No, it's the Town of Palm Beach dumps their yard trash there from the island.

MR. PUZZITIELLO: Oh, is that --

MS. JURAN: They have 30 acres next door to us.

MR. PUZZITIELLO: Can't have it on the island.

MR. BASEHART: Are they one of the objectors?

CHAIRPERSON KONYK: No. All right.

MR. SEAMAN: They wanted clarification; they got it.

MR. PUZZITIELLO: Their trash has too much noise.

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 **5/18/2007**, the Approved Site Plan for Kelly Tractor PDD (P-79-133) shall be amended through the DRO section of the Zoning Division, to reflect the variance approval pursuant BA-2006-481. (DRO: DATE: ZONING)

CHAIRPERSON KONYK: BA2006-00483, Melanie Borkowski, of Palm Beach County Facilities to allow the elimination of the required plant materials within the western compatibility buffer, et cetera. Name for the record?

MS. BORKOWSKI: Melanie Borkowski, with FD&O.

MR. SEAMAN: I have a correction to her Development Order.

CHAIRPERSON KONYK: Sure.

MR. SEAMAN: On page 35 on your Conditions and also the Development Order, we'd like to change it from the "Development Order for this particular variance shall lapse on 5/18/2007". I'd like to change that to 5/18/2009, two years from the approval date.

CHAIRPERSON KONYK: Do we have any objection to that?

MS. BORKOWSKI: No, we're in agreement with that.

CHAIRPERSON KONYK: Okay. And you agree with the condition?

MS. BORKOWSKI: Yes, in fact we'll be submitting the ALP application in a couple of weeks.

CHAIRPERSON KONYK: Use your mic.

MR. PUZZITIELLO: Wouldn't that be 2008 and not '09?

MR. SEAMAN: No, you get one year and then you get two extra.

MR. PUZZITIELLO: Okay, just checking the math.

MR. SEAMAN: It's '07, and then '08 and '09.

MR. PUZZITIELLO: Okay.

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

(No response.)

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

MS. BORKOWSKI: Thank you.

BOARD OF ADJUSTMENT CONDITIONS

1. The applicant must submit the revised justification statement and Alternative Landscape Plan (ALP) dated 4/27/2006 to the Landscape Section for review and approval with pending building permit(s). (BLDG.PERMIT: LANDSCAPE SECTION)

CHAIRPERSON KONYK: Time extension for Kilday & Associates, agents for Beverly Buss and Joseph Horvath, to allow a 12 month time extension. Applicant?

MR. SEAMAN: We also have a condition correction.

CHAIRPERSON KONYK: On this one? Okay. We have a condition correction on this one.

MR. SEAMAN: If you turn to page 42 of your staff report, under Board of Adjustment Conditions, the first condition reads:

"By May 19, 2006, or upon the DRO certification, the applicant shall amend the site plan to reflect the variance approval pursuant to BA2005-00461 and is hereby amended to read...", and unfortunately we put the same year.

So it should say, "By May 19, 2007...". We're giving it one more year on their PO or on their condition.

CHAIRPERSON KONYK: Your name for the record?

MS. COLEMAN: Jamie Coleman with Kilday & Associates.

CHAIRPERSON KONYK: And do you understand and agree with that correction?

MS. COLEMAN: Yes.

CHAIRPERSON KONYK: Okay. There's no one from the public here on this and no letters.

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

(No response.)

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

DEVELOPMENT ORDER

1. The Development Order for this particular variance shall lapse on **05/19/2006**, one year from the approval date. (DATE: MONITORING: ZONING)

IS HEREBY AMENDED TO READ:

1. The Development Order for this particular variance shall lapse on **05/19/2007**, one year from the approval date. (DATE: MONITORING: ZONING)

BOARD OF ADJUSTMENT CONDITIONS

1. By May 19, 2006, or upon the DRO certification, the applicant shall amend the site plan to reflect the variance approval pursuant to BA2005-461. (DATE: DRO: ZONING)

IS HEREBY AMENDED TO READ:

1. By May 19, 2007, or upon the DRO certification, the applicant shall amend the site plan to reflect the variance approval pursuant to

BA2005-461. (DATE: DRO: ZONING)

2. All plant material required by the ULDC, within the 15 feet incompatibility buffer along the east property line, shall be installed within the approved 5 feet incompatibility buffer and the adjoining 10 feet drainage easement. (ON-GOING: LANDSCAPE: ZONING)

3. The applicant shall comply with the Loxahatchee Groves Neighborhood Plan recommendation 1, item 2, that requires the rear 50 feet of the property shall provide a 100 percent opaque barrier. The recommendation states that opacity can be provided by either: 1) landscaping; and 2) a fence or a wall. (ON-GOING: CODE ENFORCEMENT: ZONING)

CHAIRPERSON KONYK: Did the applicant show up that was --

MR. SANFORD: The applicant hasn't shown up.

CHAIRPERSON KONYK: Okay. I know that you guys, Bob has raised a concern and so has Mr. Jacobs concerning the applicant not being present, but we've talked about this every time it happens, and every time it happens we always have come to the conclusion that the applicant's variance is contingent upon them accepting the conditions and if they don't, then they don't get the variance. And it wasn't a problem that they're not here.

MS. HELFANT: Since the applicant is not present, you can still move forward with the hearing because he's been notified. As long as he's received notice --

CHAIRPERSON KONYK: Okay.

MR. SEAMAN: Okay. There he is.

CHAIRPERSON KONYK: Okay. This is item -- which one?

MR. SANFORD: The first item.

CHAIRPERSON KONYK: BA2006-00352, Darrel Zbar?

MR. SANFORD: Right.

CHAIRPERSON KONYK: Your name for the record?

MR. ZBAR: My name is Darrel Zbar. I apologize to the Board for being late. It was a parking --

CHAIRPERSON KONYK: That's okay. We haven't voted on it yet.

MR. BASEHART: You're right, he was

parking.

CHAIRPERSON KONYK: He doesn't have to be sworn in for this, only if he speaks later. You want him sworn in?

MS. HELFANT: Yes, please.

CHAIRPERSON KONYK: Okay. Swear him in.

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

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

MR. ZBAR: The conditions?

CHAIRPERSON KONYK: I'm sure they've been over them with you, but let's get it clarified.

MR. SANFORD: The first condition is that you're going to get a result letter after the hearing and it's going to be sent out to you, and you just have to supply that to the building division along with your site plans, the plans for your proposed single family --

MR. ZBAR: The result letter being?

CHAIRPERSON KONYK: From here saying that you got the variance.

MR. ZBAR: And I'll supply that with my plans for the house, okay.

MR. SANFORD: And then the second condition is basically prior to the development order expiration, the project shall have received and passed the first building inspection by 5/18/2007.

MR. ZBAR: Okay. By 5/18/07? So I would need to do what before then? Apply for the permit or --

MR. PUZZITIELLO: Apply and have a --

MR. SANFORD: The project shall have received and passed the first building inspection by that date.

MR. ZBAR: The first building inspection.

And if I do not do that? I mean, that's -- I don't know what happens. What if there's hurricanes? What if there's delays that are outside of my control? Do I lose --

MR. SEAMAN: You have a whole year and that's typically what's granted --

MS. SPRINGER: Please use the microphone.

I'm having a hard time hearing.

MR. SEAMAN: If you feel at that time that you need another year, you come in here and ask for an extension.

MR. ZBAR: Okay.

MR. SEAMAN: And if the justification for the extension is appropriate, then we can consider granting you another year.

MR. ZBAR: Is that an administrative request or is that through the whole hearing process with the Board?

MR. SEAMAN: It's to the Board.

MR. ZBAR: Okay. And does that get noticed to the public as well?

MR. SEAMAN: No.

MR. ZBAR: Okay. Is there a fee for the extension for that in addition to what I've

already paid so far?

MR. SEAMAN: No.

MR. ZBAR: Okay.

MR. SEAMAN: Yes, there is; yeah, there is. Yeah.

MR. ZBAR: All right.

MR. SEAMAN: It's \$150.

MR. ZBAR: Okay.

CHAIRPERSON KONYK: Can you amend it now for him or not?

MR. SEAMAN: Well, I was just thinking we had to raise it, but --

MR. ZBAR: I mean, I haven't even gotten plans from an architect yet and I don't know how I'm going to complete construction within a year if I don't even have plans and it takes --

MR. PUZZITIELLO: You don't have to complete construction, just have your first inspection. Basically, you have to have your house drawn, you have to get a building permit and you have to have your first inspection, which is usually your plumbing underground inspection.

MR. ZBAR: So if I have a foundation poured, that would suffice?

MR. PUZZITIELLO: Yeah.

MR. ZBAR: Okay, we'll go with it from there then. That's fine.

MR. BASEHART: You promise by then it will take less than a year for a building permit?

MR. PUZZITIELLO: By that time it should be two years.

MR. ZBAR: I understand. Everyone's been very reasonable with me. I have no reason to believe that it wouldn't --

CHAIRPERSON KONYK: Have we ever denied a time extension? We haven't, have we?

MR. SEAMAN: No.

CHAIRPERSON KONYK: Okay. All right.

MR. ZBAR: That's fine; I agree to those terms.

MR. SEAMAN: There's always a first time, though.

CHAIRPERSON KONYK: Stop. Any letters? We already did this part, so -- and there's no Board member that feels that this warrants a full hearing, so this item will remain on consent. You may have a seat.

BOARD OF ADJUSTMENT CONDITIONS

1. By **05/18/2007**, 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 of Adjustment, simultaneously with the building permit application. (BUILDING: DATE: ZONING)

2. Prior to the Development Order expiration (**05/18/2007**), the project shall have received and passed the first building inspection. (BUILDING:

DATE: ZONING)

MR. JACOBS: Madam Chair, before we vote on the Consent Items, I'd like to raise just a basic policy question, which is whether any consent item should be granted when the applicant isn't here.

And part of my concern is that if an applicant can, if you will, avoid being present at the Board hearing, it cuts off any chance that there may be some live opposition when the item comes up for hearing. I mean, if the applicant were present and there were to be opposition from the public, then the chances are that it would be put over to the regular agenda for a hearing.

But if you in effect grant the consent item without the applicant being present, you foreclose that possibility.

CHAIRPERSON KONYK: Well, if he's not present and there's opposition, it's automatically re-ordered to the next meeting. We wouldn't hear it if there was opposition from the public and the applicant wasn't present.

MR. BASEHART: Or we may hear it in his absence.

MR. PUZZITIELLO: Or it gets turned down.

CHAIRPERSON KONYK: Or we may hear it in his absence, exactly. We may go ahead with the hearing and he doesn't have the opportunity to defend his position.

MR. SEAMAN: If we were denying the application and the applicant wasn't here, that would be something that --

CHAIRPERSON KONYK: But if we were approving the application and there was opposition from the public, there's two things that could happen.

We could go forward or we could re-order it.

MR. JACOBS: I think the maximum that should happen if the applicant isn't present is to get kicked over to the next meeting.

CHAIRPERSON KONYK: Yeah, but you know what? That creates a problem for staff. That doesn't create the big problem for the -- you know, and they've already been in contact -- if the guy isn't here and he doesn't agree with the conditions as we have approved them, then he doesn't get his variance, anyway.

MR. PUZZITIELLO: The bigger problem is if there is opposition and we reorder it to the next agenda, that means the people who want to object have to come back when they're here to --

CHAIRPERSON KONYK: I guess what we've done in the past is, which I don't really remember it happening when there was opposition, but we have said we were going to go forward with the hearing without them.

So I guess that's really the way we would handle it.

MR. PUZZITIELLO: Yeah, I think we --

MR. SEAMAN: It's your choice if they're not here, but the public says they want you to hear the petition, then it's your right to say, okay, let's hear it and if you decide to deny it, that's fine, or approve it, that's fine.

MS. HELFANT: And as long as the applicant is properly noticed, I mean, you can move forward with it.

CHAIRPERSON KONYK: Right. It's not really an issue I don't think when there's no opposition from the public and there is no indication that the applicant doesn't agree with the conditions, although even if he doesn't agree with the conditions, he's still bound by them because that's what the variance says.

We just as a courtesy ask them whether or not they agree with them when they're here. It's really more of a courtesy thing than anything else.

MR. BASEHART: Well, not really. I mean, if an applicant disagrees with the conditions, he has the opportunity to debate that and sometimes we may not place that condition.

CHAIRPERSON KONYK: Correct, but if he's not here he's lost that opportunity. It's all to his disadvantage not to be here. I mean, he --

MR. SEAMAN: Staff does make it a point to call them and say are you aware of your conditions? Are there any issues that you need to talk about? Are you comfortable with what's going forward? Yes.

You know, we do that with every applicant.

We try to.

CHAIRPERSON KONYK: Okay. Any more discussion?

(No response.)

CHAIRPERSON KONYK: Items on consent, BA2006-00352; BA2006-00353; BA2006-00358; BA2006-00473; BA2006-00474; BA2006-00481; BA2006-00483 and BATE2006-00618. Do we have a motion?

MR. BASEHART: Madam Chair, I'd like to make a motion that we approve the Consent Agenda as amended with the conditions of approval recommended by staff, and I'd like the record to reflect that the staff report for each of these items is the record of the hearing.

CHAIRPERSON KONYK: We have a motion by Mr. Basehart.

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. I'm guessing the letters are going
to be mailed, right? Okay. So you'll receive
your letters in the mail.

We're adjourned.

(Whereupon, the meeting was adjourned at
9:30 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 21, 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 30th day of May, 2006.

Sophie M. (Bunny) Springer