

RECORD AND REPORT
PLANNING AND ZONING COMMISSION
2004-2005 ZONING HEARINGS
Tuesday, March 29, 2005 at 9:30 a.m.
360 South County Road, Palm Beach
Town Council Chambers

I Call to Order and Roll Call: Chairman Robertson called the meeting to order at 9:30 a.m.

PRESENT: Harrison M. Robertson, Chairman
 Joanna Golino, Secretary
 Lowry M. Bell, Member (arrived at 9:47 a.m.)
 Peter S. Broberg, Member
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Member
 Susan Markin, Member (arrived at 9:35 a.m.)
 John Schuler, Alternate Member
 Alan S. Golboro, Alternate Member
 Stanley G. Mortimer III, Alternate Member
 John C. Randolph, Town Attorney
 Robert L. Moore, Director of Planning, Zoning & Building
 Veronica Close, Asst. Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 William F. Brisson, Brisson Planning Solutions (Zoning Consultant)

ABSENT: None

RECORDING SECRETARY: Cynthia M. Delp

II Invocation: By Mrs. Delp

III Pledge of Allegiance

IV Proof of Publication: Confirmed by Mr. Castro

V Procedures for Input by the General Public

Mr. Robertson stated that members of the General Public would be allowed three minutes to address the Planning and Zoning Commission at this time, or at a future point in the meeting.

VI Approval of the Planning and Zoning Commission Record and Report for transmittal to the Town Council

Mr. Castro clarified that the Record and Report in question is the record from the Planning and Zoning Commission meeting on February 10, 2005.

MOTION BY MRS. MURRAY FOR APPROVAL OF THE RECORD AND REPORT.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

Mr. Robertson took a moment to congratulate Mr. Castro on his election as Mayor of the Town of Lake Park.

VII Town of Palm Beach Zoning Proposal Staff Report Phase III 2004-2005

Presentation by Siemon and Larsen

Mr. Castro stated that Mr. Charles Siemon and Mr. Todd Messinger of Siemon and Larsen, P.A. were present today to provide a presentation to the Planning and Zoning Commission similar to the one already given to the Town Council on March 23, 2005. This presentation of the Siemon and Larsen report will be followed by the staff's presentation of the Staff Report Phase III.

Mr. Siemon identified himself as a land use planner and a land use attorney. He explained that Siemon and Larsen was hired by the Civic Association to analyze how variances have been used in the town in recent years, to make recommendations for change, and to similarly discuss the role of special exceptions in the town.

Mr. Siemon discussed the history and evolution of zoning and variances within the country and in Florida, all of which is fully elaborated in the Siemon & Larsen Report. He explained that within the Standard State Zoning Enabling Act (1922), a hardship provision was included; "that is, that a variance could be granted that would allow someone to make minimum use of their property if they could demonstrate that there was a hardship." This was the origin of the variance, and the hardship provision was added to ensure constitutionality. While zoning regulations were initially very strict, flexibility arrived on the scene in the 1960's with the advent of such things as PUD developments.

Mr. Siemon stated that the Town's Zoning Code dates back to 1929. The Town has been a leader in having a Comprehensive Plan which has been kept up to date. Palm Beach is essentially "built out", having an excellent inventory of homes, with many of them non-conforming. Within the Town of Palm Beach, opportunities are plenty to modify, upgrade,

enhance, and add on to existing homes, and this is where the owner's plans for the property often fly in the face of the established zoning regulations. The Town's Code, for variance approval, requires proof of "unnecessary and undue hardship", i.e., "the applicant must provide competent, substantial evidence to prove that no reasonable use could be made of the property absent the variance." Mr. Siemon felt this was a very difficult standard to meet, and stated that in reality, variances granted almost never involve an "undue hardship," as the law requires. Instead, variances serve to allow communities to grant relief from the code for projects which are viewed as favorable to the community at large. "When a variance is granted under those conditions, and it is challenged, they are regularly overturned by the courts, because the undue hardship standard is truly an extraordinary standard that's, in most cases of our experience, very difficult to support, and the reason for that is that the historical reason, which was to avoid a constitutional taking is not what the tool is being used for. It is being used to make reasoned judgements about how a structure can be built in a neighborhood that has character, in a zoning ordinance that has relatively rigid, fixed standards, in a way that makes sense. And it is that exercise of judgement and reason which really doesn't fit to the standard."

Mr. Siemon introduced Todd Messinger who looked at each of the 701 variances handled in the last seven years, along with special exceptions. Mr. Messinger introduced himself as a planner and a land use attorney. He also surveyed which sections of the code were the subject of most variance requests. Meeting minutes were also reviewed to try to determine whether hardship criteria was met. Of the 701 total individual variance requests, 632 were approved; or 9 out of 10 variances were approved. Of the 701 variance requests, 3 out of 4 related to five areas: setbacks, building mass (lot coverage and CCR), open space, height (of buildings, walls, fences, point of measurement), and lot size. Mr. Messinger stated that they agree with staff that the number of variances relates to the fact that the existing zoning regulations do not agree with what is actually on the ground. He also acknowledged the economic advantage in designing for a variance rather than according to the strict code. They also agree with staff that the zoning districts need to be re-evaluated according to what is actually built, and that specific standards should be developed to deal with the five common classifications of variances.

Mr. Messinger stated that, empirically, Special Exceptions are not a large problem in the Town of Palm Beach. There were just 213 requests over seven years with a 96% approval rate, and approximately 50% of those relate to town-serving requirements. No hardship provisions need to be satisfied in the granting of special exceptions. Even so, there is some room for improvement with regard to special exceptions: Staff delegation for clear-cut applications, rather than taking these to the Town Council; some special exceptions might be considered "as of right" uses instead of being subjected to additional standards; reorganize and supplement the standards to make the code more user friendly; and, evaluate the standards on the ground.

Mr. Siemon added that the variance decisions which have been made in the Town of Palm Beach were most likely well reasoned and appropriate, but may not be sustainable if subjected to legal challenge. Secondly, he stated that "when you have standards in a code, the design community responds to those because their objective is to obtain approval." Sustainable and defensible decisions are not rooted in what he referred to as the "wink system" of variance approval, but in

established standards. He was quite confident that the Town would benefit from the establishment of some sort of procedure (other than variances) to allow for flexibility within the code, along with the retention of the existing variance procedures for cases of true hardship.

Commission Comments and Questions

Mrs. Markin complimented the Siemon and Larsen Report as an excellent study, and questioned the reason for the study. Was the study contracted on the premise that too many variances are being approved, and therefore, there is a procedural problem, or was the ultimate objective of the study to minimize the “bursting at the seams” building in town?

Mr. Siemon responded that his understanding of the assignment was that the study was contracted because the tool does not appear to be working, therefore, because of procedural problems. The Report “is not an antidote to overbuilding.”

Mrs. Golino thanked Mr. Siemon for the enlightening report, and agreed with the report that the Town’s Zoning Code does not reflect what is actually on the ground. She wondered if it would be better to postpone making any changes to the variance procedure until after the neighborhood index is in effect, and the R-B district divisions are re-studied and re-defined. She felt that these implementations may eliminate the need for many variances. Variances are just a “band-aid” to provide flexibility in a code which needs to be updated and/or corrected. She agreed with the report that with regard to Special Exceptions, staff should be given review authority of certain types of applications to lessen the load of the Town Council.

Mr. Siemon responded that it is their belief that the Town needs to revise its variance procedure no matter what other procedures may be implemented. The Town needs both a fixed standard and some procedure to allow for flexibility, other than via variances.

Mr. Robertson wondered whether Mr. Siemon was recommending that the variance procedure change be done before the study of possible divisions within the R-B Zoning District.

Mr. Siemon suggested that both be done concurrently, as one package.

Mr. Schuler questioned whether Mr. Siemon thought that landscaping should be part of the consideration. He stated that ARCOM often approves homes with extensive landscaping, and then finds some time later that the original landscape plan was either not implemented or was modified to remove some landscape material.

Mr. Siemon responded that many communities find that landscaping is a mitigating factor. As for the ARCOM approval with landscaping, most communities grant approval of the structure with the condition that the original landscape be maintained, so this condition runs with the land.

Ms. Markin listed the statistics in the Siemon and Larsen report relative to reasons for variances, which also happen to be the areas of most complaints and concern from residents:

96% of variances for lot dimensions approved
93% of variances for setbacks approved
91% of variances for building height approved
90% of variances for footprints approved
83% of variances for height of walls, fences and gates approved

She stated that if so many variances are the result of a code which is too strict, then that should be changed. If, however, the intent is to hold the line on the codes to avoid over-development, then perhaps the codes need to be re-written to maintain control, but allow for some degree of flexibility.

Mr. William Guttman, Chairman and CEO of the Palm Beach Civic Association, stated that the study was commissioned because the Civic Association was concerned about the procedural aspects being used by the Town Council in applying the variance standards. There is deviation from the standards in the code, along with application of a subjective standard on an ad hoc basis, creating an “unwritten” zoning code. Granting variances on this basis has allowed lawyers to argue that certain precedents have been set. Mr. Guttman stated his certainty that the Town Council is trying to preserve the character of Palm Beach when they review and grant variances. He felt it was very important that the laymen on the Town Council, i.e., those who are not architects or aesthetically schooled, need help to know the elements upon which they should focus when granting a variance.

In keeping with the thought that decisions must be legally defensible, Mrs. Golino referred to Page 29 of the Siemon and Larsen Report, wherein it is suggested that perhaps variances of 20% or less could be reviewed by staff, rather than going to the Town Council. She wondered if this would contribute to “the wink system” of variance approvals. Mr. Siemon responded that with well-written, specific, and well-defined standards, this type of flexibility provided through staff review and approval is possible.

Mrs. Murray asked how long these code changes can be expected to take if it is contemplated to simultaneously change the variance procedure and re-study the R-B districting. Mr. Siemon replied that provided staff has the time to dedicate to the task, it could take 6 months to one year. He cited the City of Clearwater as an example of a city which basically started over with a new code after just nine months of work, but noted that the task was given priority status at the time.

Mrs. Markin noted that the rules for the Town Council to follow have been in place for a long time, but they have not necessarily been followed. Her concern was that if the time and trouble is expended to change the zoning code regulations, will the Town Council commit to adhere to them. She did not feel it was the job of the Planning and Zoning Commission to legitimize variances, or minimize the number of variances. She saw the job of the commission as developing codes for the Town Council and residents to adhere to in attempting to balance growth and development in keeping with the character of Palm Beach.

Mr. Siemon responded that if there is a desire for flexibility from the code, there must be

established criteria to permit the granting of such a variance, instead of the undue hardship rule.

Mr. Guttman asked Mr. Siemon to address the practical difficulties test and the Bert Harris Act. Mr. Siemon responded that “practical difficulties” is a term used to describe an alternative standard when it is appropriate to grant a deviation from a regulation. He believes that practical difficulties could be carefully incorporated into the code, and could be defensible in court. With regard to the Bert Harris Act, any time a change in regulations is perceived to cause an undue burden on a property owner, the Act is implicated. In response to a question by Mr. Robertson, Mr. Siemon stated that there are very few cases involving variances where there have been judicial determinations that Bert Harris Act violations have been validated. The Bert Harris Act “is an admonition from the legislature to be cautious and careful and avoid unintended consequences on private property rights.”

Mr. Bell asked Mr. Siemon to rate the Town on a scale of 1-10 with regard to zoning and variances. Mr. Siemon gave the town “pretty good marks,” but stated that the ordinance needs work.

Mrs. Golino questioned whether persons would be less successful in challenging the Town on the basis of the Bert Harris Act, if proposed changes in regulations can be shown to be in keeping with the goals in the Comprehensive Plan. Mr. Siemon responded that the Harris Act identifies certain property rights for the existing use of the property and certain expectations related to the property, but felt that the Comprehensive Plan, if in effect prior to the Bert Harris Act, would carry a lot of weight with the court.

Mr. Robertson recognized Mayor McDonald, Councilman Brooks, Councilman Goldblum, and Councilman Kleid in the audience.

Mr. David Barton, Jamaica Lane, read a prepared statement into the record. He maintained that overbuilding is not caused by variances, but instead by other factors which have not been addressed. He advocated a panel to review land use planning, zoning and building regulations. Mr. Barton posed five questions that should be addressed by the Planning and Zoning Commission:

- 1) What are the overarching land use policies?
- 2) How should our limits of growth be determined?
- 3) How should the capital program be planned?
- 4) When will the Town’s planning commission start to plan?
- 5) How should the tools of planning, zoning and building regulations, be devised, applied and supervised?

Former Mayor Marix, of 1570 North Ocean Boulevard, discussed a situation with her own home and the house built next door, specifically as it relates to landscaping requirements at the time of approval and Certificate of Occupancy. She maintained that there is no enforcement of landscaping in the town. She also questioned what percentage of the homes, where variances are requested, are “spec” houses.

At this point, 11:00 a.m., there was a short recess to 11:10 a.m.

STAFF PRESENTATION

Mr. Castro introduced Ms. Close to address Items 2A (ALTERNATIVES TO THE TOWN'S VARIANCE AND SPECIAL EXCEPTION CODE REQUIREMENTS) and 2B (ALTERNATIVES TO THE REVIEW PROCESS FOR REGULATORY APPLICATIONS) in the Staff's Phase III Report.

Study Item 2A ALTERNATIVES TO THE TOWN'S VARIANCE AND SPECIAL EXCEPTION CODE REQUIREMENTS

Ms. Close explained that Item 2A outlines the staff's analysis of the various options available to the Town in addressing variance criteria. She agreed with those who spoke earlier that the review of the R-B Zoning District could reduce the number of variance requests. For the variance requests which will still be made, Ms. Close listed four basic alternatives to handle them:

- 1) Denial of variances, i.e., a "just say No" policy;
- 2) Retain, but modify the hardship criteria, to add some degree of flexibility;
- 3) Add provisions regarding conditional dimensional variances, with alternative development standards, for more flexibility; and
- 4) Add significant flexibility through the practical difficulty standard, a conditional dimensional variance test, and an administrative dimensional waiver.

Ms. Close introduced Mr. Bill Brisson of Brisson Planning Solutions, the Town's Zoning Consultant, to present the staff's report. He explained that staff has looked for alternative approaches to reduce the number of variances, and secondly, to provide a consistency in the determination of applications for variance. Mr. Brisson stated that the Town code requires that special conditions exist on a particular piece of property in order for a variance to be approved, but if these conditions are common to a whole district, then there is a problem with the zoning code regulations. He also believed that the R-B study and the advent of the neighborhood index may reduce the need for variances, but other approaches may still be considered.

Practical Difficulty is an alternative to the hardship standard. While the hardship standard implies that an owner does not have use of his property, practical difficulty means that an owner cannot achieve one of the uses that is normally allowed in a district. He acknowledged that practical difficulty has its own set of problems, however.

Mr. Brisson stated that many times, variance requests are based on an owner's design preference, not the required hardship criteria. He noted that if the "just say NO" policy was adopted, the Town would most likely see many fewer variance requests. "If the code is not strictly followed by enforcing the hardship criteria, then it needs to be replaced by some other more flexible method which reflects what the community is trying to achieve." Mr. Brisson stated that this is, in practice, what is being done by the Town Council now, as they make judgements as to what

they feel is appropriate for the town, but is not necessarily meeting the hardship criteria. Practical difficulty would allow some flexibility to the code. Mr. Brisson referred to Page 4 in the staff's report relative to the example of practical difficulty as shown in the code of ordinances of Plymouth Township, Michigan. The purpose of employing the practical difficulty standard is not to reduce the number of variances, since Mr. Brisson felt it could actually increase the number of requests. It serves to allow the town to approve the variance, without being in contradiction to a hardship requirement.

Mr. Brisson stated that staff looked at the types of variance requests submitted, and the most common of these is for setbacks. As such, if there is an alternative means for addressing setbacks, that would reduce the Town Council's workload. Secondly, Mr. Brisson felt that minor variance requests of less than 20%, 15% or 10%, for example, could be addressed from an administrative level as long as the proper criteria, placed into the code, were met. Also, since almost one-half of the variance requests were for the R-B Zoning District, this number may be reduced with re-subdivision of the R-B district and implementation of the neighborhood index. Mr. Brisson stated that most of the requests for the R-B district (44%) are for expansions and renovations of existing homes, while only 11% are for new construction. He felt that new construction should be held to the hardship standard, but existing homes should be allowed more flexibility, especially since the Town encourages expansions and renovations as opposed to tear downs with reconstruction. He referred to the Table on Page 7 describing the various types of construction associated with variances.

Mr. Brisson presented the concept of a **Conditional Dimensional Variance**, which might also be referred to as alternative development standards. This would require establishment of criteria to allow for some deviation from the strict requirements of the code, based on conditions that are to be ensured for the neighborhood or area. The applicant would have to demonstrate that he has met the conditions as specified in the ordinance to protect the neighborhood character, provide for public safety, and protect the neighbors from adverse impacts. He felt that using a conditional dimensional variance could provide flexibility and improve the appropriateness of variance decisions, but suggested that CCR, lot coverage and open space requirements not be included in the allowance for this variance since the work is ongoing related to the R-B district and the neighborhood index. It would more aptly apply to variances for setbacks and heights. The conditional dimensional variance has its own set of advantages and disadvantages, as listed in the staff's report on pages 7 and 8.

Mr. Brisson presented the **Administrative Dimensional Waiver** option. This could be approved by the administration, or town staff. These generally involve very minor variations to the code, and are generally considered to be harmless. Specific standards must be set for staff to evaluate these.

As for **Staff Recommendations**, Mr. Brisson stated that staff strongly believes that the R-B district should be changed and/or subdivided as needed, along with establishing development regulations in keeping with the built environment. Until that is done, staff suggests that alternatives such as the practical difficulty standard, conditional dimensional variance, or an

administrative dimensional waiver might be implemented to improve the consistency of variance approvals, and assist in reducing the number of variances. Mr. Brisson elaborated on each, as listed in the Staff Report beginning on Page 9. He explained that the difference between the conditional dimensional variance and the administrative dimensional waiver is that the administrative waiver would only be for variances of up to 20%, and any requests which exceed that would have to be heard under the provisions for conditional dimensional variance. If an applicant were to exceed the criteria under the conditional dimensional variance, that individual would have to seek a variance under the practical difficulty standard, or the hardship provision, whichever was applicable. Staff also made suggestions relative to allowing administrative approvals, by staff, for point of measurement variances or changes to the point of measurement for height for properties located east of the CCL, and, suggested allowing for additional consideration for landmark structures in the practical difficulty and conditional dimensional variance provisions to encourage their continued existence (See Page 13 of the Staff Report).

Mr. Castro added that staff's suggestions attempt to respond to the daily struggle between the existing environment and the existing code requirements, which quite often produce very small or minor variance requests. These various procedures could be placed into effect in the interim, while the re-subdivision of the R-B Zoning District, and the neighborhood index are being studied. Mr. Robertson asked Mr. Castro about the timetable for subdividing the R-B district and creating new regulations for same. Mr. Castro responded that he would estimate that it will be a two year process as it is a very large, technical task.

Mrs. Murray asked Mr. Randolph whether the Town could really have one set of rules for new construction and one set for renovations and remodels. Mr. Randolph responded affirmatively. Even with current regulations, it is much more difficult to obtain a variance for new construction than for existing buildings. He commented that the Planning and Zoning Commission needs to make major policy decisions today rather than focus on specific regulations. The question is how does the town maintain strict standards for variances which can be upheld in order to deny certain applications, and still offer some flexibility in other cases. He asked the commission to decide if flexibility is needed, and where it is needed. From his experience with other communities, he stated that many communities simply deny applications per the code, and remarked that somehow builders and developers find a way to build without needing a variance. Mr. Randolph expressed his view that it is appropriate to maintain the strict standards in the code, because it affords the opportunity for denial, but then also advocated creating alternative development standards to allow for more flexibility. He felt that the Siemon and Larsen Report was a very good report with good ideas, and stated that he basically agrees with report recommendations.

Mr. Randolph cautioned the commission to not permit the Bert Harris Act to scare them from taking appropriate action. The Town's ordinance is very strong and was in effect prior to the 1995 Bert Harris Act. Any regulations adopted after 1995 are subject to attack under the Bert Harris Act.

Mr. Randolph posed the questions for consideration as follows:

- 1) Should the variance criteria be changed and what is the impact of doing that?
- 2) Should the code be more flexible?
- 3) Is there a place for strong variance criteria and a “just say NO” policy: or, should more flexible standards be developed in conjunction with keeping the hardship criteria?

Mr. Bell commented that he does not believe in flexibility at all, and was definitely opposed to allowing staff to grant variances. He did agree that certain allowances could be made for things such as walls, fences, and things of that nature, but otherwise, the code should be kept tight and strong.

Mrs. Golino agreed with Mr. Randolph that denials are much easier with the existing code provisions. She felt that practical difficulty would promote more variance requests. Mrs. Golino was in favor of more planning, subdividing the R-B district, and creating development standards, prior to looking at other alternatives for review. Bonus zoning could promote some architectural features that the town would like to see in a neighborhood. She advocated postponing the variance discussion until the new R-B regulations have been developed.

Ms. Markin commented that the town’s builders and developers are hurrying to get their projects approved and/or built before any new regulations are enacted, so decisions must be made relative to the interim period. She felt that having a strict code is very important, together with the availability for some allowance for special conditions. Ms. Markin stated that if the Town Council does not begin to restrict the variances, nothing will really change. As such, she suggested that a committee be created to serve in the interim time period to review variances; that committee being composed of a Resident, a Town Council Member, a Planning and Zoning Commission member, and any other logically associated person.

Ms. Murphy stated that in earlier presentations, there was reference to the affect of variances on the immediate adjoining properties. She commented that only considering the immediate adjoining properties is too limited, and advocated a longer view down the street. Secondly, with regard to administrative requests (variance requests under 20%), she suggested that no administrative requests be delegated to staff which would affect the neighbors and their reception of air and light, but others which really do not affect the neighbors could be reviewed by staff. She advocated maintaining the hardship standard in the code, but perhaps re-defining it. Ms. Murphy stated that she is very concerned about the Bert Harris Act. The Town has the benefit of a pre-1995 (pre-Bert Harris) code, and should not loosen the controls which are already built into the code.

Mrs. Murray stated that if we think that the Town Council granted too many variances, they have not been given the correct tools to do the job. More is needed than just the “undue hardship” tool. The Town Council needs to know what factors the commission wants them to consider when they grant variances.

Mr. Randolph responded to Ms. Markin’s comment about the developers hurrying to obtain their approvals, stating that the Town could declare zoning in progress, which has been previously

suggested. Mr. Castro noted that the Planning and Zoning Commission has recommended that zoning in progress be created, and the Town Council has already made a decision to declare zoning in progress for the neighborhood indexing at the November 8, 2005 Town Council meeting.

Mr. Robertson stated that he is not in favor of changing the code. He noted that Mr. Siemon had stated earlier that the Town has been a leader in the zoning field. Mr. Robertson called the Town's code "excellent and sophisticated," but if numerous variance applications indicate that certain provisions of the code are flawed, then they should be corrected, rather than change the variance procedure. He was in favor of taking no action on the recommendations made today, in favor of seeing how the neighborhood index and R-B subdivisions work first. He suggested review of the Town's Land Use Plan in the Comprehensive Plan to determine if any changes are necessary.

Councilman Richard Kleid addressed the Planning and Zoning Commission. He stated that it is well known that the Town Council has been granting 90% of the variance requests, but announced that he will not vote for any variances that do not adhere strictly to the code. Mr. Kleid told the commission that if they take no action today, they leave the Town Council to either adhere strictly to the regulations, or evaluate applications with "kindness".

Mr. Guttman encouraged the Planning and Zoning Commission to make some recommendation to the Town Council. One option is to recommend that the Town Council strictly apply the hardship standard, realizing that the "hard line" affects public policy. Practically speaking, if this policy had been followed, there would be no Preservation Foundation building as we know it, and there would be no fence around the Four Arts Sculpture Garden. In consideration of all of the non-conforming houses in the north end, if the hardship standard were strictly applied, owners would see "tear downs" as their only option to improve their properties. He stated that he was deeply concerned that a strict hardship policy would encourage tear downs, and asked the commission to offer some sort of recommendations to the Town Council.

Mr. Robertson called for a motion from the commission.

MOTION BY MR. BELL THAT THE PLANNING AND ZONING COMMISSION RECOMMEND TO THE TOWN COUNCIL THAT FOR NEW CONSTRUCTION, THE STRICT HARDSHIP RULE BE IMPOSED; AND FOR EXISTING CONSTRUCTION, THAT OWNERS BE PERMITTED TO CONTINUE TO APPLY FOR AND OBTAIN VARIANCES UNTIL SUCH TIME AS THE REST OF THE PROPOSALS ARE STUDIED AND DETERMINATIONS ARE MADE AS TO POSSIBLE MODIFICATIONS OF THE CODE, NOT TO GIVE FLEXIBILITY, BUT TO GIVE RIGHTS.

MOTION DIED FOR LACK OF A SECOND.

At this point, staff continued with their presentation relative to special exceptions. (See Page 14 of the Staff Report) Mr. Brisson noted that the largest number of special exception requests coming to the Town Council for review relate to the Town-serving 2,000 square foot limitation in the commercial districts. Mr. Brisson stated that staff believes that special exceptions could be handled more efficiently by allowing staff to administratively review and approve certain special exceptions for which there are already specific governing criteria. Of course, this criteria would need to be clearly stated to avoid subjective judgements. Relative to special exceptions for town-serving, which are only applicable to non-residential areas, staff suggested that staff be permitted to review and approve applications for 2,000-5,000 square feet. Applications for larger commercial spaces (larger than 5,000 square feet), and any applications for which decisions are debatable would automatically be referred to the Town Council. Staff could also review special exception applications for shared parking provided all the code conditions are met. Staff could also review beach houses in the Beach area zoning district. The Town Council would handle any appeals.

Mr. Schuler expressed concern over having staff review special exception applications for 2,000-5,000 square feet as he felt this would encourage large stores. Mr. Brisson explained that approval is still required, but it would either be staff or Town Council reviewing the application and the accompanying town serving documentation, depending on the circumstances. Mr. Castro testified that in his ten years with the Town, all businesses who submitted town-serving documentation were able to demonstrate town-serving status. Mr. Schuler commented that as the size of stores increases, so do parking and traffic problems, and there is more to reviewing a special exception for a large store than just looking at the town-serving documentation. Mr. Castro acknowledged that there are other mitigating factors which produce an impact, which could possibly be a negative impact.

MOTION BY MRS. GOLINO TO APPROVE THE STAFF RECOMMENDATIONS FOUND ON PAGE 16 CONCERNING THE APPLICATIONS FOR SPECIAL EXCEPTION.

MOTION SECONDED BY MS. MURPHY.

MOTION BY MRS. GOLINO AMENDED TO APPROVE STAFF RECOMMENDATIONS #1 AND #4 FOUND ON PAGE 16 CONCERNING THE APPLICATIONS FOR SPECIAL EXCEPTION.

AMENDED MOTION NOT ACCEPTED BY MS. MURPHY.

MOTION RE-STATED BY MRS. GOLINO TO APPROVE ALL FOUR RECOMMENDATIONS FOUND ON PAGE 16 CONCERNING THE APPLICATIONS FOR SPECIAL EXCEPTION.

MOTION SECONDED BY MS. MURPHY.

Under discussion, Mr. Castro attempted to clarify recommendation #1; i.e., that anything that is a permitted use in the code, which would exceed 2,000 square feet and up to 5,000 square feet, would not have to meet the other special exception criteria in the code, other than the town-serving requirements. With the approval of recommendation #1, the applicant does not have to meet the special exception criteria until after the 5,000 square foot threshold is met. Staff would simply review the town-serving documentation and nothing else.

Mr. Randolph stated that he is in favor of reducing the Town Council's workload by handling reviews administratively, and would recommend as such for certain applications, but he asked the commission to proceed with caution regarding the town-serving aspect. He had concerns about turning over determinations regarding town-serving status to staff, as the Town has been in litigation relative to this subject in the past, and such determinations are more involved than simply filing an affidavit with a list of customers. He felt the Town Council should be given a full presentation from the applicant to verify town-serving status. He also believed that staff should not be able to use discretion in reviewing these applications, but instead staff should be bound by certain criteria.

Mr. Moore asked if new businesses could be reviewed differently than expansions of existing businesses. Existing businesses over 2,000 square feet, which have already been established as town-serving, simply submit updated town-serving documentation each year as a condition of renewal of their occupational license. Mr. Moore stated his opinion that the initial town-serving determination should be made by the Town Council, not by staff. Staff could be permitted to review the town-serving documentation submitted annually with occupational license renewal, or for those town-serving businesses expanding up to 5,000 square feet.

MOTION AMENDED AGAIN BY MS. MURPHY TO APPROVE ALL FOUR STAFF RECOMMENDATIONS FOUND ON PAGE 16, WITH RECOMMENDATION #1 REWORDED AS FOLLOWS: TO AUTHORIZE STAFF TO ADMINISTRATIVELY APPROVE APPLICATIONS FOR SPECIAL EXCEPTION TO THE TOWN-SERVING 2,000 SQUARE FOOT LIMITATION IN THE COMMERCIAL DISTRICTS INVOLVING BETWEEN 2,000 AND 5,000 SQUARE FEET IN CASES WHERE THE EXISTING BUSINESS IS APPLYING FOR EXPANSION AND IN CASES WHERE TOWN-SERVING DOCUMENTATION HAD ALREADY BEEN APPROVED BY THE TOWN COUNCIL.

PLEASE NOTE THAT THE MAKER OF THE MOTION, MRS. GOLINO, ACCEPTED THE AMENDMENT.

MOTION CARRIED 6-1, WITH MR. BELL VOTING AGAINST THE MOTION.

At this point, 12:50 p.m., the meeting recessed for lunch until 2:00 p.m.

Let the record show that all members who were present in the morning session returned after lunch. Let the record show that shortly after calling the meeting back to order, Chairman

Robertson had to leave the meeting for approximately one-half hour. Mrs. Golino acted as Chairman until Mr. Robertson returned.

**Study Item 2B ALTERNATIVES TO THE REVIEW PROCESS FOR
REGULATORY APPLICATIONS**

Mr. Brisson continued with the Staff's presentation as elaborated on pages 17-23 of the Staff Report. He stated that it is the staff's position that the Town Council continue to review **Site Plan Reviews**, with one minor exception dealing with single family and two-family uses on platted non-conforming lots in the R-A, R-AA and R-B zoning districts which can be reviewed comfortably by staff. Mr. Brisson noted that neighboring property owners would not have notice of administrative site plan reviews, but Mr. Castro stated that they would nevertheless be notified of the project via an ARCOM notice.

**MOTION BY MR. BROBERG FOR APPROVAL OF THE STAFF
RECOMMENDATION WITH REGARD TO SITE PLAN REVIEWS.**

MOTION SECONDED BY MR. BELL.

**MOTION CARRIED 5-2, WITH MR. SCHULER AND MRS. GOLINO VOTING
AGAINST.** *(Mr. Schuler voted on this motion since Mr. Robertson was not present.)*

With regard to **Special Exceptions**, "staff believes that the disadvantages associated with a recommending body reviewing special exceptions significantly outweighs its advantages." As such, staff recommended that the Town Council continue to review special exceptions.

**MOTION BY MR. BELL TO APPROVE THE STAFF RECOMMENDATION WITH
REGARD TO SPECIAL EXCEPTIONS.**

MOTION SECONDED BY MRS. MURRAY.

MOTION CARRIED UNANIMOUSLY. *(Mr. Schuler voted relative to this motion since Mr. Robertson was not present.)*

With regard to **variances**, consideration was given to having bodies other than the Town Council review variances. Mr. Brisson listed the advantages and disadvantages of the current Town procedure for Town Council review of variances, as found on Page 26 of the Staff Report. Other communities most commonly handle variances through a Board of Adjustment or Zoning Board of Appeals. This would be an appointed board which hears and makes decisions relative to variances. Appeal of such a board's decisions is done at the Town Council, or could go directly to Circuit Court. This would reduce the workload of the Town Council and afford more time for

them to work on policy issues. Mr. Brisson listed the advantages and disadvantages of a Zoning Board of Appeals type of review, as found on Page 28 of the Staff Report. Staff would recommend that appeals of these decisions go directly to the Circuit Court in order to keep the Town Council's workload reduced.

Another alternative, though less commonly used, is the Appointed Hearing Officer. This is typically a planner and/or lawyer who is hired to review and run the hearings for variance review. Mr. Brisson listed the advantages and disadvantages of using a Hearing Officer, as found on Pages 30 and 31 of the Staff Report. While there are several advantages to using a Hearing Officer, the disadvantages are simply cost, and lack of accountability to voters.

Mr. Brisson explained that staff cannot make any recommendation in this regard, as this is a policy decision for the Town Council. Staff does recommend, however, that if a Zoning Board of Appeals or a Hearing Officer is used, appeals of decisions should go directly to Circuit Court rather than the Town Council.

Mr. Schuler stated his opinion that the Board of Adjustment does not fit Palm Beach due to the "uniqueness" of this community. He felt it would be better to develop the Town's zoning regulations to respond to the Town's unique qualities.

Mr. Randolph stated that Palm Beach is the only community he represents where the Town Council considers variances and special exceptions. He stated that a Zoning Board of Appeals has the same abilities and problems that a Town Council has. By having review done by a Zoning Board of Appeals, review is removed from the legislative body of the Town. Mr. Randolph noted that such a proposal has surfaced a few times in the Town over the past twenty to twenty-five years, but in each case, the Town Council did not want to relinquish their review of these matters.

Mr. Schuler stated that when he served on the Architectural Commission, he had made a recommendation that ARCOM review the variances, as they had previously done before the Town Council took that review away from ARCOM. Mr. Randolph noted that in the Town of Gulfstream there is an Architectural and Planning Review Board, which reviews architecture and variances and special exceptions. This board, then, makes their recommendation to the Town Commission as to the architecture and the variance. Mr. Schuler was not in favor of establishing a new review body in the Town if ARCOM can already perform this function. Mr. Moore noted that both ARCOM and the Landmarks Preservation Commission review variances now with regard to architecture, not hardship.

Mr. Golboro asked about the Development Review Committee. Mr. Castro responded that the DRC is composed of representatives from each of the Town departments. While a Town Council member is invited to attend, there is no requirement for it. Mr. Castro stated that each month, staff meets individually with each of the Town Council members in advance of the Town Council meeting to review the requests for variance, special exception and site plan review.

Ms. Markin commented that it is apparent that much of the Town Council's time is consumed in review of variances. She also stated that the citizens expect something to be done about variances, and as such, the Planning and Zoning Commission must arrive at some recommendations for the Town Council. In that spirit, she suggested that the Town Council consider a sub-committee, of their design, to review variances. Perhaps the committee could be composed of two Town Council members, two members of the Planning and Zoning Commission, a member of the Civic Association, an ARCOM member, and a staff member. She felt variance review should be kept within the Town, not in court.

MOTION BY MR. BROBERG TO DO NOTHING AND KEEP VARIANCE, SPECIAL EXCEPTION AND SITE PLAN REVIEW WITH THE TOWN COUNCIL.

MOTION SECONDED BY MRS. GOLINO.

Under discussion, Councilman Goldblum commented that most homes in town are non-conforming, and most variances are granted to those. Very few are granted for new homes. He believed new homes could be held to the hardship standard. Mr. Goldblum stated that Palm Beach wants young families, and wants owners to remodel their homes. The Town Council wants to keep the town the way it is, a family town, not a commercial town or a condo town. The zoning regulations should be made workable to allow work to be done to those homes. Zoning in Progress will be evoked in November. Mr. Goldblum advocated taking action sooner than two years to tackle and correct the problem. He suggested hiring a company to assist staff in changing the code.

Councilman Kleid acknowledged the large amount of time devoted to variances, special exceptions and site plan reviews during the monthly Town Council meetings. He felt that the Town Council's time would be better devoted to policy matters. Mr. Kleid indicated that while he serves on the Town Council, he will follow the law in making determinations relative to development review matters. He agreed with the concept brought forth by Ms. Markin to create a special board composed of a Town Council member, and a member from each of the three commissions: ARCOM, Landmarks Preservation Commission, and the Planning and Zoning Commission. He felt that this would provide a varied approach to the review of the applications, and would serve to eliminate the time the Town Council spends on these matters.

Mr. Robertson spoke in favor of the Hearing Officer option, rather than establishing another board. The Hearing Officer would make a final decision on a given matter, with a right of appeal to the Town Council.

Ms. Murphy stated that she would not be in favor of a Hearing Officer, as the exchange of ideas is somewhat limited with only one individual. She recommended that at least a group of four persons should review the development review matters. Further, she recommended that if there is a Zoning Board of Appeals, appeals of those decisions must go directly to the Circuit Court.

Mr. Goldblum commented that staff has expertise and reports from other Town departments. He

reiterated that staff gives every Town Council member a full overview of every application for variance, special exception and site plan review. Mr. Goldblum stated that he studies each of the applications and visits the affected sites, as do many of the other Town Council members in trying to make the best decisions for the town.

MOTION CARRIED 5-2, WITH MS. MARKIN AND MR. ROBERTSON VOTING AGAINST THE MOTION.

Mr. Randolph reminded that the issue of how to deal with variances, as discussed this morning, must now be re-visited to arrive at a conclusion. Mr. Moore agreed stating that the Planning and Zoning Commission must now decide on a methodology for recommendation to the Town Council to deal with the issue of varying the code.

Mr. Broberg, to review, stated that 95% of the homes in the R-B zone are non-conforming, and 90% of the variances granted are for the R-B zoning district. These variances are granted to give the existing property owners “a break” to work with their existing homes rather than tear them down. He was reminded that Mr. Siemon acknowledged that while the variances granted by the Town Council may not be legally correct, they were granted as “the right thing to do.” Mr. Broberg advocated giving the Town Council the tool and ability to continue to grant the small variances that existing homes really need. He stated we must immediately identify what is on the ground, and then revise the codes to accommodate the deviations from the code which are viewed as acceptable changes. He also suggested, while the code is being changed, that the 50% rule be re-written to further discourage tear downs.

MOTION BY MR. BROBERG TO RECOMMEND TO THE TOWN COUNCIL THAT WE ADOPT A PRACTICAL DIFFICULTY STANDARD, AS STATED IN THE SIEMON AND LARSEN REPORT, FOR EXISTING CONSTRUCTION, AND THAT THE STANDARD VARIANCE PROCEDURES, IN PLACE NOW, WOULD APPLY TO NEW CONSTRUCTION, (NOT THE PRACTICAL DIFFICULTY STANDARD), AND PROPOSE THAT THE TOWN COUNCIL START IMMEDIATELY ON IDENTIFYING WHAT IS ON THE GROUND IN THE NORTH END R-B ZONE.

MOTION SECONDED BY MR. BELL.

Under discussion, Ms. Murphy stated she was not in favor of using the practical difficulty standard for existing homes as she felt it allows for too much discretion. She stated that the solution lies in examining the code and creating new regulations as necessary. Ms. Murphy also asked for clarification on the previous motion sponsored by Mr. Broberg, which was answered to her satisfaction.

With regard to Mr. Broberg’s recent motion, Mr. Goldblum anticipated that the Town Council

would be legally challenged if they approve variances without meeting the hardship criteria. Mr. Randolph responded that carefully drawn specific standards, relative to the practical difficulty test included in Mr. Broberg's motion, would most likely produce sustainable decisions.

Mr. Ned Barnes, President of the Civic Association, asked Mr. Messinger to clarify practical difficulty. Mr. Messinger explained that practical difficulty was added to the report to illustrate what is being done elsewhere in the country, but they are not aware that it is in use in Florida. He stated that while practical difficulty standards must be defined, the question remains as to whether the standards should address the practical difficulties of the individual property owner, or the objectives of the Comprehensive Plan and community character. He noted that practical difficulty will allow for less of a reason to say No, because it is easier to demonstrate and does not deal with hardship. The Town must look for an interim solution until regulations have been studied and changed. He stated that implementing practical difficulty does not address the preservation of community character which is so important to the Town.

Mr. Randolph stated that he was glad to hear practical difficulty being de-emphasized. He felt it leaves too much room for discretion and would be subject to attack. Mr. Randolph recommended an intact retention of the hardship criteria, together with looking at what is on the ground and making a determination about the kind of things that variances have been granted for which are looked upon favorably. Review of the subjects of these favorable variances would then lay the basis for development of alternative development standards.

Mrs. Golino agreed with Mr. Randolph. She stated that she voted to keep variance review with the Town Council so there would only be one major change at a time. Mrs. Golino thought the focus of the Planning and Zoning Commission should be to review alternative development standards because the current system needs to be fixed. She agreed that the undue hardship provision should be retained, but in order to allow for the development of existing houses, she suggested that administrative dimensional waivers could be permitted. Such a waiver would not be granted at the Town Council level, but at the administrative level. She recommended against the introduction of the practical difficulty standard.

Ms. Murphy also spoke in favor of retention of the undue hardship standard, together with a focus on correcting the code to include allowances for what is on the ground, i.e., the subjects of favorable variances, as stated earlier by Mr. Randolph.

Ms. Markin commented that practical difficulty legitimizes variances, which is not what the commission wants to do. She agreed that new alternative development standards should be developed within a certain time frame, and the Town Council should "hold the ground" on variances as much as possible based on the current code.

Mr. Randolph asserted that it will not take two years to arrive at alternative development standards. He felt it could be accomplished in a relatively short period of time.

Mr. Goldblum asked the commission to recognize that if the Planning and Zoning Commission

recommends that the Town Council hold to the hardship standard, and the Town Council grants one variance, the Town Council will be subject to legal challenge. As such, he recommended that the commission take some action that would allow the Town Council to give variances for existing homes, similar to the motion put forth by Mr. Bell earlier, which failed for lack of a second. Mr. Goldblum felt that the town needs to cease considering hardship when considering the land.

Mr. Kleid responded that if the undue hardship standard remains, the town has no right to vary whether considering the land or the house. So far, there has been no direction from the Planning and Zoning Commission other than to retain the hardship standard. Mr. Broberg replied that his motion speaks otherwise, though the controversy surrounding his motion was noted.

MR. BELL WITHDREW HIS SECOND.

Mr. Kleid stated that if the motion is passed, the undue hardship requirements will force each Town Council member to vote his conscience. Some council members will vote according to the law and some will take the familiar, more compassionate approach. Mr. Goldblum responded that if a council member votes his conscience, a legal challenge will be filed. Mr. Randolph noted that he has been with the Town for thirty years while members have been voting their conscience, and there have been only a handful of law suits filed against the Town with regard to variances. Mr. Goldblum stated that he will vote against any variance request which does not satisfy the hardship provision, unless the practical difficulty standard or some other alternative is added to the code. Mr. Kleid stated his opinion to retain the current system, until such time as the Planning and Zoning Commission, endorsed by the Town Council, arrives at other alternatives to soften the code with respect to the variances which have generally been granted. Mr. Kleid urged the Planning and Zoning Commission, if the staff is able, to undertake and complete this task sooner than November 1, 2005, and stated that this may require the Planning and Zoning Commission to meet during the summer.

Mrs. Golino advocated retaining the current variance process including the hardship provision, but asked staff to study the concept of the administrative dimensional waiver. This would allow the Town Council to avoid dealing with the difficult variance situations, and it could apply to new or existing construction. She felt that adding practical difficulty to the code would set a bad precedent. While she had the floor, Mrs. Golino stated her opinion that the Planning and Zoning Commission should meet during the summer months, at least once per month, to do planning functions and look at the eight planning districts.

Mrs. Murray commented that practical difficulty is not the answer to trying to help the Town Council make the best decisions. Alternative development standards should be developed, and perhaps staff could be afforded the assistance of outside experienced consultants to develop those standards.

Ms. Murphy stated her opinion that even though the Town Council has been granting “compassionate” variances for years, since the “wink” system has now been exposed, if she were

a Town Council member, she would not approve any variance which “was not truly tied to the land.” She advocated development of alternative standards, especially if hardship is retained as the test. Ms. Murphy felt this process could be facilitated with the information in the Siemon and Larsen Report, and urged that the process be expedited as much as possible to decide what to keep and what to delete in the code. She suggested that staff may need to be increased to accomplish the task.

Mr. Schuler asked staff how long it would take to arrive at the alternative standards. Mr. Moore stated he could not estimate it at this time, but assured the members that staff is capable of determining the alternative standards to address the subjects of variances which have been deemed as acceptable or favorable. He noted that it would not take two years. The two year time period stated earlier in the meeting was for a possible re-zoning of the north end. Mr. Schuler agreed with Mrs. Golino to meet during the summer.

MOTION SECONDED BY MR. ROBERTSON.

MOTION FAILED 2-5, WITH ONLY MR. BROBERG AND MR. ROBERTSON SUPPORTING THE MOTION.

MOTION BY MR. BELL TO ASK THE TOWN COUNCIL TO HIRE SIEMON AND LARSEN TO REVIEW THE STAFF RECOMMENDATIONS AND ARRIVE AT ALTERNATIVES FOR WHAT THE TOWN SHOULD BE DOING, AND IN THE MEANTIME, TO KEEP THE VARIANCES BASED ON THE HARDSHIP.

MOTION SECONDED BY MRS. MURRAY.

Under discussion, Mr. Randolph attempted to clarify the intent of the motion as providing a means for the code to be expeditiously corrected to include allowances for variances which have been considered to be favorable. Mr. Robertson re-stated the motion. Mr. Broberg stated that the motion only serves to assign the task to someone else. He advocated a more definitive plan of action.

MOTION FAILED 3-4, WITH MR. BROBERG, MRS. GOLINO, MS. MARKIN, AND MR. ROBERTSON VOTING AGAINST THE MOTION.

MOTION BY MRS. GOLINO TO RECOMMEND TO THE TOWN COUNCIL THAT THE UNDUE HARDSHIP STANDARD FOR VARIANCES BE RETAINED, AND TO SUGGEST THAT STAFF DEVELOPS ADMINISTRATIVE DIMENSIONAL WAIVER STANDARDS TO ALLOW FOR MINOR DEVIATIONS FROM THE REQUIREMENTS OF THE ZONING CODE, THAT IN PREVIOUS TIMES HAVE BEEN HANDLED BY VARIANCES.

MOTION SECONDED BY MR. BROBERG.

Mr. Randolph clarified that this certainly could be studied over the summer, but due to the limitations of the zoning season, such a change could not be effected during the summer. Staff can begin the study and report back to the commission until the matter can be heard during the zoning season.

Mr. Castro stated that this proposal would provide some flexibility to property owners and some relief to the Town Council, provided that the waivers are for minor deviations from the code. Staff could review the waivers, provide interim reports over the summer, and bring forward recommendations when the zoning season begins again in the Fall.

Mr. Broberg asked how the Town Council will deal with variances between now and then. Mrs. Golino responded that nothing has really changed.

Mr. Bell stated he was opposed to the administrative waivers by staff because he did not feel staff should be granting waivers to anyone.

Ms. Markin asked that a time limit be established for staff to develop the alternative development standards, and asked for staff's task to be clearly defined. Mr. Randolph felt that staff would have to look at alternative development standards in conjunction with review of the administrative waivers. Mrs. Golino was hesitant to change the wording of the motion to read alternative development standards instead of administrative waivers. Mr. Randolph responded that a substitution would not have to be done, but stated that alternative development standards would include administrative waivers. Mrs. Murray stated her objection to having the motion reference both alternative development standards and administrative waivers, as she felt they should be two separate motions. Mrs. Golino stated that her motion specifically referenced administrative waivers only. She suggested that a vote be taken on her motion as stated.

Ms. Murphy stated she was not comfortable with administrative waivers as she does not know what "minor deviations" from the code means. She also understood that the waivers would just be a temporary measure until new standards are developed. She recommended setting a time line to achieve the task of assembling all of the necessary code changes, for ultimate presentation to the Town Council. Ms. Murphy's opinion was that the Town Council should apply the undue hardship test in a strict manner when reviewing "unfavorable" variance requests. However, the Code should be amended to allow for the approval of what would have been considered "favorable" variance requests.

MOTION FAILED 3-4, WITH MR. BELL, MRS. MURRAY, MS. MURPHY, AND MS. MARKIN VOTING AGAINST THE MOTION.

MOTION BY MS. MURPHY TO RECOMMEND THAT THE TOWN COUNCIL RETAIN THE UNDUE HARDSHIP TEST, AND TO ASK STAFF TO PROPOSE, BY A DATE CERTAIN, NOVEMBER 1, 2005, SPECIFIC CHANGES TO THE ZONING CODE, UTILIZING THE DATA IN THE SIEMON & LARSEN REPORT, IN TERMS OF SOME CHANGES TO THE CODE.

MOTION SECONDED BY MR. BELL.

Ms. Murphy explained that, in fact, the specific changes referenced in the motion are alternative development standards which will be presented as changes to the code. For example, those types of variances looked upon as favorable in the Siemon & Larsen Report will result in code changes, while other variances will be summarily denied if undue hardship has not been satisfied. Mr. Moore explained that staff will review the variance data in the Siemon and Larsen Report, and make determinations about what was acceptable, and then propose changes to the code so those items no longer require a variance.

MOTION CARRIED UNANIMOUSLY.

Mr. Castro stated that the Record and Report of this meeting must be brought back to the Planning and Zoning Commission for approval and transmittal to the Town Council. As such, a meeting date must be set for the Planning and Zoning Commission. **As there is already a scheduled meeting of the Planning and Zoning Commission on April 19, 2005, the Record and Report will be reviewed at that time.**

VIII Any Other Items

Mrs. Golino proposed that the commission consider assigning the eight Planning Areas of the Town of Palm Beach to various members of the commission. The individual members would visit the area assigned, view what is on the ground and what might work, and assess the neighborhood character. The commissioners would be able to provide valuable input to the staff and Mr. Brisson which would help to accelerate the process of dealing with the re-subdivision of the R-B district, prior to the beginning of the zoning season next year. She asked the members to think about this until the next meeting.

Mr. Broberg called for a point of order relative to a motion made at a previous meeting. At that time, there was discussion about raising the green space in the R-B district from 40% to 45%, with 50% of that in the side yard. He noted that the 50% in the side yard portion of the motion was voted down. Mr. Broberg questioned whether the Town Council was aware that the Planning and Zoning Commission did not approve that. Mr. Moore responded that the Town Council was so advised, but the information is likewise transmitted in the Minutes of the meeting. Mr. Kleid stated that the Town Council read the Minutes, and were properly advised, but the Town Council decided not to go along with the recommendation of the Planning and Zoning Commission.

IX Adjournment

MOTION BY MR. BELL TO ADJOURN THE MEETING AT 4:07 P.M.
MOTION SECONDED BY MRS. GOLINO.
MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Harrison Robertson, Chairman
Town of Palm Beach
Planning and Zoning Commission

Joanna Golino, Secretary
Town of Palm Beach
Planning and Zoning Commission

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