

Board of Adjustment Meeting of the Town of Ocean Ridge held on Wednesday,
November 07, 2001 at 8:30 AM in the Town Hall Meeting Chambers

The meeting was called to order by Chairman Barlage and roll call was answered by the following:

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|-------------------|---------------|
| Richard Lucibella | Bernd Schulte |
| Geoff Pugh | Earl Jones |
| Chairman Barlage | |

III Approval of Minutes
A. September 20, 2001

The minutes of the September 20, 2001 Board of Adjustment meeting were approved by Geoff Pugh, seconded by Rich Lucibella.

Motion carried – yea 5.

IV. Variance Requests

- A. An application submitted by June Fox, President of Green Machine Development Corp., 200 MacFarlane Drive, #405, Delray Beach FL 33483, requesting a variance from the provisions of the Land Development Code, Appendix B; Subdivision Improvements, Section (b); Design Requirements; Paragraph (7) Lots; Sub-Paragraph (a), and Paragraph (10) Streets to permit access by an access easement to two proposed homes facing east and west along the Intracoastal Waterway at the southwest end of Hudson Ave. (25 Hudson Ave.) located at the described address or legally described as the North 87.86' of Lots 15 and 16, less the west 65' of said Lot 16, Block 6, Boynton Beach Park Subdivision and Lots 15 and 16, less the North 87.86' thereof and less the west 65' of said Lot 16, Block 6, Boynton Beach Park Subdivision. (CONTINUED FROM 8/15/01 and 9/20/01)

1. Request to withdraw variance request without prejudice to allow for immediate re-submittal of an amended variance request.

The application was read into the record by Deputy Town Clerk Herrmann.

Chairman Barlage advised that Atty Palen's letter of request for above of October 31, 2001 would be part of the record.

Atty Spillias stated that the original request had been postponed on August 15, 2001 and September 20, 2001 to today's meeting. He stated that the code does not allow a postponement of more than sixty days although it is the fault of the Town that the board did not meet in October and therefore is already over the sixty days. He stated that the

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staff has met with the applicant who would like to amend the request. He stated that if they were able to withdraw without prejudice, they could resubmit without having to wait the six months required to re-submit on a denied variance. He explained that the applicant has filed an appeal in court against the board for upholding the decision of the zoning official and that if they are allowed to resubmit, this court case would be moot.

Chairman Barlage expressed his concern that Atty Scheck who was present for the board at the previous meetings would be the attorney to defend the board in court to which Atty Spillias advised that the Town Attorney would have that role. Atty Spillias further explained that had the board not upheld the decision of the zoning official and the Town filed suit against the Board of Adjustment, he would defend the Town and Atty Scheck would defend the Board.

Frank Palen, attorney for the applicant, stated that his client would like to refile with a new plan that he feels would be more acceptable to the board and staff. Atty Spillias explained that although staff has met with Mr. Palen to discuss the new plan, it does not mean that the staff has endorsed the new plan or that it will recommend approval.

Rich Lucibella questioned why the board had to meet to make this decision and if they could have just been polled to avoid a meeting to which Atty Spillias stated that the decision had to be made in a formal meeting.

Mr. Lucibella stated that he felt the code was very rigid and that it would be better for the board to err on the side of the petitioner; therefore, he would approve of allowing them to withdraw without prejudice. No other board members or public had any comment.

Mr. Schulte moved to allow the applicant to withdraw the variance request without prejudice, seconded by Mr. Pugh.

Motion carried – yea 5.

The next Board of Adjustment was scheduled for December 12, 2001 at 8:30 AM.

V. Adjournment

The meeting was adjourned at 8:45 AM.

Attest By:

Town Clerk

Chairman Barlage

Earl Jones

Rich Lucibella

Geoff Pugh

Bernd Schulte