Meeting of the Board of Adjustment of the Town of Ocean Ridge, Florida held on Wednesday, March 14, 2007 at 8:30 AM in the Town Hall meeting chambers.

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

Terry Brown Bernd Schulte
Richard Lucibella Gail Adams Aaskov
Chairman Hanna

Atty Spillias was present representing the Town.

III. APPROVAL OF MINUTES
A. December 13, 2006

Mr. Schulte moved to adopt the December 13, 2007 minutes, seconded by Mrs. Aaskov.

Motion carried – Yea (5)

IV. VARIANCE REQUESTS

A. An application submitted by Jeffrey S. Lee, 15 Sabal Island Drive, Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 64, Zoning, Article I; District Regulations, Section 64-1(h)(1-3); Floor Area Calculations (75% second story); and Chapter 67; Article III; Technical codes and other Construction Standards, Section 67-35; Stilt Construction to permit the construction of a partially enclosed carport with a second story chart room/bathroom and roofed porch area that is 120% +/- of the carport located at 15 Sabal Island Drive or legally described as Lot 15, of McCormick Mile Subdivision (exact legal description located at Town Hall) (CONTINUED FROM DEC. 13, 2006)

Town Clerk Hancsak commented that the applicant was not present; however, based on discussions with the applicant she believed that he planned on withdrawing this request.

Atty Spillias suggested deferring this item until the other variance application is heard.

Mr. Lucibella moved to defer this request until after the applicant's other variance request. Mr. Brown seconded the motion.

Motion carried – Yea (5).

B. An application submitted by Jeffrey S. Lee, 15 Sabal Island Drive, Ocean Ridge FL 33435, requesting a variance from the provisions of the Land Development Code, Chapter 67; Buildings and Building Regulations, Article III; Technical Codes and Other Construction Standards, Section 67-32; Floor Elevations; Sub-paragraph (a)(2) & (5); minimum finished floor elevation of not less than eight (8) feet is required to permit the construction of an addition consisting of a partially enclosed slabbed

carport with a minimum elevation of 7.3' +/- to match the elevation of the existing garage area with a second story chart room/bathroom and roofed porch area above at 15 Sabal Island Drive or legally described as Lot 15 McCormick Mile Subdivision (exact legal description available in the Clerk's Office)

Town Clerk Hancsak read the variance application by title and advised that all fees had been paid and no additional correspondence had been received. The applicant was not present.

At this point all the board members disclosed that they had previously reviewed the site and had not spoken with the applicant.

Any individuals planning on giving testimony were sworn in.

Chairman Hanna and Town Clerk Hancsak read the justification of application and responses for the requested variance. The applicant stated that special conditions and circumstances exist because the property is the only ½ acre point lot on Sabal Island, has an irregular shape and is located at the end of a natural coral head creating a downward slope from the road to the end of the property and is the only home with a lower elevation than the road. The applicant stated that special conditions and circumstances do not result from the actions of the applicant because he has made no exterior physical changes to the property. The applicant stated that granting the variance would not confer any special privileges. The applicant stated that literal interpretation of the ordinance would work unnecessary and undue hardship because it would prevent the applicant from using the property commonly enjoyed by others because to construct the new slab at 8' would flood out the existing garage. They felt it was the minimum variance and it would be in harmony with the general intent of the ordinance. The applicant concluded by stating that the variance would not be injurious to the area.

Town Clerk Hancsak read the administrative comments prepared by the Zoning Official. The comments included that special circumstances may present a special condition and merit consideration because the property is lower than the abutting crown of the road and the existing garage floor slab is below 8'. He advised that the applicant has not made any physical changes to the property to cause any special condition or circumstances. He advised that granting the variance will not confer a special privilege to the applicant because there is an existing garage floor at 7.24' and their request to match it would not constitute a special privilege. He advised that the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district because if made to comply with the provisions of the ordinance it would work an unnecessary and undue hardship. The request can be considered the minimum variance to make reasonable use of the land and it would be in harmony with the intent of the ordinance because the only other alternative would be not to construct the proposed addition and added they are matching it to the existing structure. In conclusion, the variance would not be injurious to the area involved and the

recommendation was to approve the request provided a Hold Harmless Agreement is executed because the hardship criteria have been met.

Mr. Manuel Palacios, Zoning Official for the Town, stated he had nothing further to add other than that staff met with Mr. Lee and he subsequently made the necessary changes to make the addition compliant other than the FFE.

There was no public comment and the board went into executive session.

Mr. Schulte moved to approve the variance request as submitted provided a Hold Harmless Agreement is executed by the applicant. Mr. Lucibella seconded the motion.

Motion carried – Yea (5).

At this point Mr. Lucibella moved to deny the December 13, 2007 variance request. Mr. Schulte seconded the motion.

Motion carried – Yea (5).

C. An application submitted by 6393 North Ocean Blvd., LLC, 11-15 N. 2nd Street, Philadelphia, PA 19106, requesting a variance from the provisions of the Land Development Code, Chapter 64; Zoning, Article III; Supplemental Regulations, Section 66-44; Fences, Walls and Hedges; Paragraph (c) maximum height of 4' in required front yards as measured from the street side of the wall and a maximum height of 6' in the side yard as measured from the lowest grade elevation and Chapter 67; Article III; Technical Codes and Other Construction Standards, Section 67-32; Floor Elevations; Paragraph (c) maximum elevations to permit the construction of a single family residence, detached garage, cabana and guest bedroom with a finished floor elevation of 19' 6" which exceeds DEP's minimum 17.95' +/- requirement, replacing the existing 125.02' of 6' high front wall with a maximum 86' of 6' high front wall, maximum 6' gate (remainder will be 4' high) and also request to replace 58'6" of an existing 3'9" +/- high wall with a +/- 8'9" high wall from the lowest elevation (which is on the applicants' side) on the northeast property line at 6393 North Ocean Blvd. or legally described as the south 125' of north 175' of unnumbered block lying east of Ocean Blvd. in the Boynton Beach Park Subdivision (exact legal description available in Clerk's Office)

Town Clerk Hancsak read the application title and advised that no additional correspondence had been received and all fees had been paid.

It was noted that at 8:55 AM there was no one in attendance to represent the applicant.

Chairman Hanna clarified that all the members did not have any contact with the property owner or had reviewed the site.

Chairman Hanna and Town Clerk Hancsak read the justification of application and responses for the requested variance. The applicant stated that special conditions and circumstances exist because the privacy walls in question are significantly lower than other walls in the community and provide no privacy or security as currently built and for the FFE the main portion of the lot is east of the CCCL and the lot has considerable grade differences from 6.45' at the west side to above 18' at the east side where the existing home and other neighboring homes are located. They added that they do not result from actions of the applicant because the walls exist at the site property lines and do not match other walls in height in the community and the average FFE for the demolished home was at 18.5' NGVD. The applicant stated that granting the variance would not confer any special privileges because other property owners north and south of the subject house have been granted variances for the walls and FFE and would therefore comply with conditions of others in the area. The applicant stated that literal interpretation of the ordinance would deprive them of having the same privacy and security that others in the area enjoy. The applicant stated that without the variances, privacy and security issues would be impossible to maintain and regarding the FFE they stated that the area occupied by the pool and deck have an elevation similar to that of the existing rear yard -18'6" and they avoid affecting the area through fill or excavation which DEP discourages. They added that in order to have the house above an optimal floor elevation from the pool area they need to raise it 1' above the pool level. The applicant stated that the request would be in harmony with the general intent and purpose of the ordinance because the intent of the ordinance is to bring a sense of community and by allowing the variance for the walls it would blend better with adjacent homes. With regard to the FFE the applicant stated that DEP discourages excavation for habitable construction and the first floor elevation must be approved by DEP. The applicant concluded by stating that the variance would not be injurious to the area and would provide security and privacy in a manner harmonious with the community and in no way affects the area in a negative way and with regards to the FFE would comply with DEP's guidelines.

Town Clerk Hancsak read the administrative comments prepared by the Zoning Official. The comments included that special circumstances could exist due to an existing grandfathered wall on the front and sides that has been there many years. The applicant is proposing a new front wall that would consist of 86' of 6' high front wall and gate with the remainder at the 4' required height to provide a safer entrance to the property. The expansion of the side NE wall is also considered architecturally correct and safer since it abuts a public park. The code provisions would require that the front wall be 4' and side wall be 6', which effectively, due to elevations would be a 1' wall on the public side of the property and building the wall according to code would be aesthetically unappealing. In addition, since the residence abuts a public park and a major roadway and has significantly high elevations, the need for privacy and security is justifiable. Regarding the FFE, the demolished residence was at 18.5' NGVD and is therefore peculiar to this land to justify a variance to the FFE for the new structure because DEP has minimal guidelines of 15.4' NGVD for the lowest structural beam to avoid excavation. Mr.

Palacios advised that the conditions do not result from actions of the applicant citing the public park to the north of the parcel and DEP's FFE requirements adding that the residence to the south received a variance for an 18.1' FFE and this property has also been granted a variance for both the walls and a 19'6" FFE in Dec. 2003 and Feb. 2006. He does not believe that the applicant will be enjoying a special privilege because neighboring properties have been permitted to construct homes at higher elevations and higher walls due to unique conditions of the area. He advised that literal interpretation of the provisions of this chapter would work unnecessary and undue hardship because the code would deny the privacy and security that others in the area enjoy, particularly since the property abuts a major roadway and a public park. He stated that the added element of the DEP requirement that new residences east of the CCCL be elevated higher in cases where the existing grade is higher than the minimum +15.4 NGVD elevation to avoid excavation further places a hardship on the applicant to conform to State standards. In conclusion, Mr. Palacios commented that he felt the requests were the minimum variances and would be in harmony because it allows the most reasonable security walls around the property and the FFE is also reasonable in that it is similar to nearby properties and is also desired by DEP. He added that the proposed FFE would be 6" higher than the prior demolished building. The recommendation was to approve a FFE of 19' (which was the elevation that was approved in 2003), 86' of maximum 6' high wall/gate and increasing the height of 58'6" of the northeast wall to 8'9" from the lowest elevation (which is on the applicants' side).

Mr. Palacios commented that staff was recommending the variances but with a FFE of 19' to match the prior demolished home.

Mr. Lucibella clarified that the applicant's statement that the walls to the north and south of the property actually meant generally in the area because there was no wall to the north and the wall to the south appeared to comply with the height requirement. He also stated that this board was not bound by prior approvals.

At approximately 9:10 AM Percy Mejia, architect with Randall Stofft Architects, representing the owners, arrived and was sworn in. He stated that the proposed residence met all the other code requirements and they would be applying to appear before the Town Commission for construction east of the CCCL soon.

There was no public comment.

The board declared itself in executive session.

Chairman Hanna commented that he felt this property had unique circumstances because of the public park to the north and also being adjacent to a state road. He stated he was in favor of granting the variances.

Mr. Lucibella stated he objected to the west front wall in 2003 and still had the same concern. He commented that the grandfathered status is removed if the existing wall is removed and he did not believe there was any deviation in security between a 4' and 6'

wall. He stated that the neighbor to the south did not have a 6' wall. He added that he was in favor of the north side wall but not the west wall.

Mr. Brown stated the RSE district can present unique circumstances.

Mrs. Aaskov moved to approve the variances as submitted. Mr. Schulte seconded the motion.

Motion carried – Yea 4 (Aaskov, Brown, Schulte, Hanna)
Nay 1 (Lucibella)

VI. Adjournment

The meeting was adjourned at approximately 9:30 A.M.

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Chairman Hanna
Terry Brown
Richard Lucibella
Bernd Schulte
Gail Adams Aaskov

ATTEST:

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Town Clerk