

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



**BOARD OF ADJUSTMENT
STAFF REPORT
1/19/2006**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
BA-2005- 01699	5.B.1.A.2.e Fence Walls & Hedges - Residential Districts – Front. 7.F.3.A Landscape - Walls & Fences: Conflict of Easement 7.C.3 U/S Tier Side Facade Foundation Planting 6.A.1.B-1 Minimum Parking 7.C.3	4 ft max fence height in front setback; 6 ft max height in side and rear setbacks 75% of trees on exterior of fence. Berms only allowed with approved ALP 1 space per minor utility Fence must be made of natural materials such as stone or wood	8 ft high, black vinyl, chain link fence on all sides. Hedge only on outside of fence on south, east and west sides. 2 foot berm on east and west property lines without ALP No designated parking space (unstaffed facility) Black vinyl chain link	4 ft variance in front. 2ft variance in sides and rear. No trees on outside of fence on south, east and west sides 2 ft berm on east and west without ALP 1 less parking space Fence material black chain link rather than natural material
SITUS ADDRESS:	13831 40 St N West Palm Beach 33411			
AGENT NAME & ADDRESS:	Jean Lindsey JPR Planning Services, Inc. 617 NW 30 St Wilton Manors FL 33311			
OWNER NAME & ADDRESS:	3200 Belvedere Rd West Palm Beach FL 33406			
PCN:	00-41-43-09-00-000-7920			
ZONING DISTRICT:	AR			
BCC DISTRICT:				
PROJECT MANAGER:	Timothy Sanford, Planner I			
LEGAL AD:	JPR Planning Services, agent, for Palm Beach County Property and Real Estate Management Division, owner, to allow a proposed fence to exceed the maximum height and be of non-natural materials; to eliminate the required parking space; to have a two foot berm; to allow a hedge outside the fence. LOC: Vacant lot on 40th Rd. North, approx. 0.35 mile W of Avocado Blvd. and approx. 0.45 mile S of Orange Grove Blvd., in the AR Zoning District (PET: 2005-565).			
LAND USE:	RR-2.5	S/T/R: 09-43-41		
PETITION #:	2005-00565			
LOT AREA:	2.15 acres			
LOT DIMENSIONS:	207.32 feet x 388.23 feet			
CONFORMITY OF LOT:	Non-conforming			
CONFORMITY OF ELEMENT:	Non-conforming			
TYPE OF ELEMENT:	None			
ELEMENT SIZE:	varies			
BUILDING PERMIT #:	None			
NOTICE OF VIOLATION:	None			
CONSTRUCTION STATUS:	Proposed			
APPLICANT REQUEST:	To allow a proposed fence to exceed the maximum height and be of non-natural materials; to eliminate the required parking space; to have a two foot berm; to allow a hedge outside the fence.			

STAFF SUMMARY



AERIAL

The subject property is located on a vacant lot at 40th Road North, approximately 0.35 mile west of Avocado Boulevard and approximately 0.45 mile south of Orange Grove Boulevard. The property has a Future Land Use of Rural Residential (RR-2.5) and a Zoning designation of Agricultural Residential (AR). The applicant is seeking a variance to allow a proposed fence to exceed the maximum height and be of unnatural materials; to eliminate the required parking space; to have a two-foot berm; to allow a hedge outside the fence. The 40th Street Station is proposed for construction by the Palm Beach County Water Utilities Department (WUD) on a vacant residential lot in a nonconforming, unrecorded subdivision in the Exurban Tier. The purpose of this facility is to raise the chlorine residual in the potable water stream as it travels between Water Treatment Plant #8 at Jog Rd and the Turnpike to the Biotechnology Research Park DRI north of Northlake Boulevard. The proposed fence is an 8-foot, black vinyl coated chain link fence to be installed around all sides of the property. The 8-foot fence is necessary to provide security to Rechlorination Facility. Minor Utilities are required to provide one parking space. However, the Rechlorination Station is an unstaffed facility that only occasionally receives visits from WUD staff to maintain equipment and the landscaping. The proposed 2-foot berm is needed to meet stormwater management regulations for on-site retention and will also assist in meeting the 6-foot high screening requirements for the incompatibility buffers to be provided on the east and west sides of the property. The code requires 75% of perimeter buffer trees to be planted outside of any fence within the required landscape buffer. At the proposed facility, a continuous hedge is proposed to be planted on the outside of the fence, but all of the required trees are proposed to be planted on the inside of the fence due to space constraints.

STAFF RECOMMENDATIONS

Approval with conditions, based upon the following application of the standards enumerated in Article 2, Section 2.B.3 of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Board of Adjustment may authorize a variance.

ANALYSIS OF ARTICLE 2, SECTION 2.B.3 VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

YES. Utility sites that provide access to the potable water stream must be secured under new Terrorism laws (Homeland Security) to reduce the threat of contamination. Contamination of the water supply could have catastrophic effects on the water consumer. Security measures to protect the potable water supply is a special condition not normally encountered in typical residential development within the Exurban Tier. The fence requirements for both height and materials were not written for security sensitive facilities. 2-Foot Berm The proposed site is within the C-51 basin which has extensive stormwater management requirements which necessitate the placement of a 2-foot berm on the east and west property lines.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

YES. Due to the high risk nature of the water facility, a higher fence is necessary in order to provide security for this facility. The need for the berm is to meet stormwater management regulations and is not due to the actions of the applicant. Suitable alternative sites within the geographic space constraints were minimal to nonexistent so a wider site that would have provided more room outside the fence for landscaping were not available.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

YES. WUD has a responsibility to the public to ensure the safety of the potable water supply. The applicant will not receive any special privilege from the approval of this variance which will enable WUD to apply reasonable security standards to the site. Since ample space for off-street parking will be provided on the access drive, the elimination of the required one, delineated parking space separate from the paved roadway will not confer any special privilege on the Applicant.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

YES. Since ample space for off-street parking will be provided on the access drive, the elimination of the required one, delineated parking space separate from the paved roadway will not confer any special privilege on the Applicant. Since ample space for off-street parking will be provided on the access drive, the elimination of the required one, delineated parking space separate from the paved roadway will not confer any special privilege on the Applicant.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

YES. The proposed material and height variance is the minimum variance that would allow Palm Beach County Water Utilities to install the type of fence that provides adequate security for this facility. The 2-foot high berm is the minimum variance which will enable the site to achieve the stormwater management requirements in the C-51 basin. The parcel cannot be developed as proposed without this berm.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

YES. Providing adequate security for public facilities is consistent with the public, health, safety and welfare and thus is consistent with the Comprehensive Plan and the Code. The 2-foot high berm will enable the site to achieve the stormwater management requirements in the C-51 basin and thus is consistent with the Comprehensive Plan and the Code. The proposed 4-foot high hedge on the proposed 2-foot high berm will provide an opaque 6-foot high screen on the outside of the proposed fence thereby meeting the intent of the Comprehensive Plan and the Code in regard to adequately buffering incompatible properties.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

YES. Providing adequate security will not be injurious to the public. On the contrary, not providing adequate security could be much more injurious to the public and detrimental to the public welfare. The proposed 4-foot high hedge on the proposed 2-foot high berm will provide an opaque 6-foot high screen on the outside of the proposed fence thereby adequately buffering incompatible properties in a manner which will not be injurious to the area or to the public welfare.

AGENCY COMMENTS

Land Development:

(General)

The requirement that the Base Building Line for the side of the property abutting 40th Street North be forty (40) feet beyond the existing right-of-way line (i.e., interior easement line) is hereby waived in part. Said Base Building Line is hereby established at twenty (20) feet north from the existing interior easement line, being also eighty (80) feet north from the south property line of the subject property as shown on the submitted survey.

Survey:

(Resolved)

The Boundary Survey does not close based on the information referenced on the map sheet of the Survey. Ran measured values and closure was off by 0.50'.

ZONING COMMENTS

No comment

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on **1/19/2007**, one year from the approval date.
(DATE: MONITORING:Zoning)

BOARD OF ADJUSTMENT CONDITIONS

Prior to DRO Approval, the applicant shall have the approved variances, pursuant **BA-2005-1699**, labeled on the site plan. (DRO: EVENT: ZONING)