

**BOARD OF ADJUSTMENT MEETING  
WEDNESDAY, JUNE 9, 2004 – 7:30 P.M.  
1ST FLOOR – CITY HALL  
CITY COMMISSION CHAMBERS  
100 N. ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

**BOARD MEMBERS**

	<b><u>Present</u></b>	<b><u>Absent</u></b>
Stephen Buckley, Vice-Chairman	P	
Gus Carbonell		A
Fred Stresau	P	
Patricia A. Rathburn, Chairman	P	
E. Birch Willey		A
Binni Sweeney		A
Don Larson	P	

**ALTERNATES**

Scott Strawbridge	P	
Al Massey		A
Jon Albee	P	

**STAFF**

Robert Dunckel, City Attorney  
Greg Brewton, Zoning Administrator  
Don Morris, Planning and Zoning  
Charlie Wygant, Building Inspector II

Margaret A. D'Alessio, Recording Secretary

**GUESTS**

Joel Fass	Garrett Conheady
George Morgan, Jr.	Rob Feiner
Neil Kozakoff	Frank Shrope
Jack Pelsler	Andrew Massagee
Bryan Cohen	Robert Lochrie
Bill Keenan	Bharat Sherh
Jerry Goldman	Greg Edlund
David Celentano	Rick Peters
Alan Gavazzi	

### **CALL TO ORDER**

Chair Patricia Rathburn called the meeting to order at approximately 7:40 p.m.

Chair Patricia Rathburn proceeded to introduce the Board, along with staff. She then proceeded to explain the procedure that would be used at tonight's meeting. She stated that an applicant needed 5 votes in favor of a request in order for the variance to be granted. Normally, 5 votes were needed out of 7, but tonight's odds would be 5 out of 6. She announced that if anyone did not like such odds, they might consider having their item deferred to next month.

### **APPROVAL OF MINUTES – May 12, 2004**

**Motion** made by Don Larson and seconded by Fred Stresau to approve the minutes of the May 12, 2004 meeting. Board unanimously approved.

Chair Patricia Rathburn announced that all items were quasi-judicial, and anyone wishing to speak on the issues would be sworn in.

Chair Patricia Rathburn asked if any of the Board members had any sign problems regarding any items on tonight's agenda.

#### **1. APPEAL NO. 04-16**

**APPLICANT:** Mainstreet One Financial Plaza Ltd.  
**LEGAL:** Town of Fort Lauderdale, P.B. "B", P. 40 (D),  
Block 14, Lot 20 and Portion of Lot 21  
**ZONING:** RAC-CC (Regional Activity Center – City Center)  
**STREET:** 100 SW 3 Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-22.4(A)(2)** – Seeking a variance to permit a ground sign with a building identification other than the approved building identification located on the wall of the principal structure.

Chair Patricia Rathburn announced that this item had been withdrawn from tonight's agenda.

**6. APPEAL NO. 04-37**

**APPLICANT:** Erasmo & Georgina Garcia  
**LEGAL:** Chula Vista, P.B. 22, P. 7, Lot 4, Block 1  
**ZONING:** RS-5 (Single Family)  
**STREET:** 1481 SW 29 Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 39-286 No. 1** – Request to permit a 6' side yard where a 7.5' sides yard is required in the RS-5 "Broward County" zoning district. **Sec. 39-70(C)** - To allow a structure utilized for a non-conforming use to be enlarged where such enlargement of structure is prohibited.

Chair Patricia Rathburn announced that this item had also been withdrawn from tonight's agenda.

**9. APPEAL NO. 04-40**

**APPLICANT:** 2000 NW 50 Street  
**LEGAL:** "Fort Lauderdale Industrial Airpark Section 1,"  
P.B. 63, P. 10, Lots 3, 4, and 5  
**ZONING:** AIP (Airport Industrial Park)  
**STREET:** 2000 NW 50 Street  
**ADDRESS:** Fort Lauderdale, FL

**PURSUANT TO: Sec. 47-24.12.A.6** – Requesting a Temporary Non-confirming Use permit to allow a vocational school within an existing office building within the AIP district, where such use is permitted as a conditional use by Code.

Jerry Knight stated that he represented the applicant, and due to the shortage of board members this evening, along with other issues they wanted to deal with, they were requesting a deferral of this item until July, 2004.

**Motion** made by Fred Stresau and seconded by Stephen Buckley to defer this matter until July 14, 2004. Board unanimously approved.

**2. APPEAL NO. 04-18**

**APPLICANT:** FPIP XII, LTD  
**LEGAL:** Township 50 South, Range 42 East, Section 14,  
Southerly Right-of-Way line for State Road A-1-A (S.E.  
17 St. Causeway) and along the Westerly Right-of-Way  
line for Eisenhower Blvd.  
**ZONING:** B-1 (Boulevard Business)  
**STREET:** 1680 SE 17 Street

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-22.3L** – To request additional Point of Purchase signs on the proposed ground sign where only two (2) Point of Purchase signs are permitted by Code.

Chair Patricia Rathburn stated that this item had been deferred from May 12, 2004.

George Morgan, General Partner, stated that they were requesting a variance, along with an interpretation of the Code. He stated further that the word “reader board” was not specifically addressed in the Code. What was addressed was “outdoor advertising display signs” which were point of purchase signs.

Greg Brewton, Zoning Administrator, stated that the Section being referred to was 47-22.3L.

Mr. Morgan stated that there had been a concern that some of the signs had either not been permitted or improperly permitted. He stated that was not the case, and what retailers were doing were creating points of purchase with their signage. He explained that a point of purchase sign was a sign on a building such as “Walgreen’s – 24 hours.” A second point of purchase sign for the store would be “Pharmacy.” He explained they were requesting additional points of purchase signs which had been permitted in the past by the City for other developers.

Chair Patricia Rathburn clarified that a sign advertising “milk at \$3.99” was a point of purchase sign, and another sign advertising “bread at \$2.99” would be another point of purchase sign. Mr. Brewton confirmed.

Mr. Morgan proceeded to give some examples of point of purchase signs. He explained that such signs were important to retailers because it advertised products on sale. He stated that this location also dealt with heavy tourism and people visiting would not know what type of store this was without proper signage. He explained that such signage was permitted in the City for a long time.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Don Larson and seconded by Fred Stresau to close the public hearing. Board unanimously approved.

Stephen Buckley asked for further clarification as to how the sign would read. Mr. Morgan proceeded to explain the signage. He advised that the script would

change, and stated most places had electronic reader boards which were more attractive.

Scott Strawbridge asked how they ended up with 5 non-conforming signs. Greg Brewton stated that one of the major problems in the City was the enforcement of the sign code. He stated that probably when the signs were permitted, they had been permitted for an area where the points of purchase were to occur. He explained they did not control copy, and that was the problem as to what was enforceable. Scott Strawbridge asked if this item was on staff's "to do list." Mr. Brewton stated that they had hired a consultant who was working with Liz Holt on this matter. He explained that one of the recommendations being made was that the City allow an unlimited number of point of purchase signs, as long as they did not exceed the permissible square footage.

Mr. Morgan advised that according to Code they were permitted to have two monument signs at the site because they were facing two streets, but Walgreen's only had one such sign. He explained they were not asking for additional square footage and were only using 25% of the total sign area for the changeable point of purchase portion of the sign.

Stephen Buckley asked if there had ever been a broad interpretation stating that this meant two different signs at two different locations. Greg Brewton stated that they could be located in different areas. He explained that a point of purchase sign was actually a description.

Fred Stresau stated that it appeared clear in reading the ordinance that point of purchase signs only permitted two products to be advertised. He proceeded to read as follows: "...restricted to the advertising of the primary purchase of the business." He stated that Walgreen's was a pharmacy, and therefore, two items could be added. Greg Brewton stated that Walgreen's was not a pharmacy, but had one on the premises.

Robert Dunckel proceeded to read the Code as follows:

"Point of Purchase Sign. Point of Purchase Signs may be any type of sign permitted by ordinance, but such signs shall be restricted to advertising the primary purpose of the business operation located on the same property. Point of Purchase Signs do not include business identification or directional signs as permitted by ordinance.

Mr. Dunckel stated that Stephen Buckley asked how many were permitted. Mr. Dunckel stated that it was his understanding that any sign on the property could have point of purchase copy. Mr. Brewton agreed. Mr. Dunckel reiterated that as many signs that were permitted by Code could have two points of purchase on each sign. Mr. Brewton confirmed and clarified that the site was not permitted

two detached signs. He stated if there were 3 street frontages, then two signs would be permitted. He reiterated that this was a complex matter.

Chair Patricia Rathburn stated that in reading the definition of a point of purchase sign, she did not feel the signs in question were of that type. She felt that the sign at the site was attractive and felt the other ones were not. She stated that the signs were not advertising the primary purpose of the business. Jon Albee stated that he agreed.

Mr. Morgan stated that 24-hour was not the primary purpose and then would not qualify as a point of purchase sign.

Mr. Dunckel stated that he did not agree that 24-hour was a point of purchase because it was neither a product or a service.

**Motion** made by Jon Albee and seconded by Don Larson to approve the request as presented. Roll call showed: YEAS: Stephen Buckley. NAYS: Fred Stresau, Don Larson, Scott Strawbridge, Jon Albee and Patricia Rathburn. Motion denied 1-5.

### **3. APPEAL NO. 04-28**

**APPLICANT:** Parkland Camelot, Ltd.  
**LEGAL:** Harbor Heights, P.B. 34, P. 33, and a portion of Parcel "C"  
**ZONING:** B-1 (Boulevard Business)  
**STREET:** 2400 SW 17 Street Causeway  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-21.9(A)(2)(a)** – To permit an average and minimum perimeter landscape area of 3'6" where the Code requires an average 10' and minimum 5' perimeter landscape area for that portion of the site that abuts a street.

Individuals wishing to speak on this item were sworn in.

Chair Patricia Rathburn announced that this item had been deferred from the May 12, 2004 meeting.

Rob Feiner, attorney, stated that he represented the applicant who was requesting a variance regarding the perimeter landscape area abutting a street. He explained that this was the Bank of America building located along the frontage road on the south side of 17<sup>th</sup> Street, and across from Pier 66. He proceeded to show photographs of the area.

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Mr. Feiner continued stating that they were going to eliminate an existing driveway, and reconfigure the parking lot. He stated the remaining portion of the site was legal non-conforming. He explained they were reconfiguring the parking lot because when FDOT built the new bridge and reconfigured 17<sup>th</sup> Street, it caused drainage problems at the site. He stated they worked with FDOT regarding this matter and had arranged for an alternate drainage plan which involved the closing of the entryway, and installing a turn-around for exiting the site, and adding two parking spaces. He explained when they used the parking spaces in the back, along with the two spaces, they would have the exact number of spaces required by Code. He stated if they had to do the 10' landscaping, then they would not meet the parking requirement. He stated the hardship incurred was due to the expansion and redevelopment of 17<sup>th</sup> Street. He proceeded to show photographs of the site.

Neil Kozakoff, one of the partners for the owner of the site, was also present to answer any questions.

Stephen Buckley stated when he had been to the site, it appeared that the far western portion was not being utilized. Mr. Feiner replied that it was part of the bank, and they were not adding any additional uses at the site.

Mr. Kozakoff stated that a long time ago there had been another tenant, but the bank then incorporated the space.

Fred Stresau stated that he wanted the letter from DOT submitted to staff, and asked if staff agreed with the presentation that had been made. Mr. Brewton confirmed and stated that the existing site had been grandfathered with the existing parking. He explained that when the parking lot was reconfigured and the access point would be cut off, they would install parking which had not previously existed, and that would bring them up to today's requirement for parking. He explained further they were not losing any parking as a result of the reconfiguration of the parking area.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on the matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Fred Stresau and seconded by Don Larson to close the public hearing. Board unanimously approved.

**Motion** made by Fred Stresau and seconded by Jon Albee to approve the application as submitted. Roll call showed: YEAS: Don Larson, Stephen Buckley, Scott Strawbridge, Jon Albee, Fred Stresau and Patricia Rathburn. NAYS: None.

**4. APPEAL NO. 04-31**

**APPLICANT:** Archdiocese of Miami  
**LEGAL:** Acreage in 21-50-42  
**ZONING:** CF-HS (Community Facility – House of Worship/School)  
**STREET:** 2601 S.W. 9 Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-25.1(M)(4)** – Adequacy Requirements: To eliminate the requirement to conduct a Traffic Impact study where otherwise required by Code.

**APPEALING: Sec. 47-25.2(M)(6)** – Adequacy Requirements: To eliminate the requirement to provide a public sidewalk along SW 26 Street and SW 28 Street where otherwise required by Code.

**APPEALING: Sec. 47-20.14** – Adequacy Requirements: To eliminate the requirement to provide a photometric lighting plan where otherwise required by Code.

All individuals wishing to speak on this item were sworn in.

Frank Shrope, architect, stated that the Parish has existed since 1960 at this site. He stated they were going to demolish an old maintenance building and replacing it with one of less square footage. He explained that the classrooms were being added due to the fact that the State had mandated that schools reduce the population in the classrooms. He stated that the Diocese would follow such mandate. He explained further that they had hired a traffic engineer who had done a preliminary study in conformance with the State guidelines and felt that a traffic impact study would be of no value. He stated no complaints had been filed by the neighborhood regarding the traffic generated by St. Jerome's.

Jon Albee asked if the applicant had not approached the threshold, he asked why such a study was being required.

Greg Brewton replied it was due to the Development Review Adequacy Requirement.

Stephen Buckley asked if the enrollment was going to be increased. Mr. Shrope replied they were not increasing the enrollment and that it was around 310 students. He stated that the figure could fluctuate slightly, but they did not expect a large increase or decrease in enrollment.

Mr. Shrope further stated that the parking lot and lighting had been permitted and approved by the City, and no changes were being made. He stated no glare went



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into the neighborhood and was contained on site. He felt it would be redundant to have a photometric study done.

Chair Patricia Rathburn asked if they were seeking a variance from having to provide additional lights or were they asking for a variance in order not to provide a lighting study. Mr. Shrope explained that they were seeking a variance for not having to provide a photometric study.

Greg Brewton explained that the construction and improvements being made created a demand for parking, but they were not going to add any new parking and would be utilizing the existing area. He stated it then had to meet today's Code and because of that a photometric study was required. He admitted it was a convoluted way of doing things, but the applicant was saying the parking was fine and they believed their current situation was better than what would be asked for on the photometric plan.

Chair Patricia Rathburn clarified the parking and lighting situation. She asked if they were asking for the requirement to be waived, but they did not know if they needed a variance to waive the requirement for additional lighting. Mr. Brewton explained the lighting existed and no requirement was being made for additional lights. He stated that a plan was being required to address glare on other properties.

Fred Stresau stated that the reason they were asking for the photometrics was because they were looking to address glare for the lights into the neighborhood, and not for the amount of foot candles in the parking lot. He stated if glare went out into the neighborhood, then they would have to address the problem or come before this Board for a variance. He further stated the variance request was because staff was requiring what Code stated. He felt it was simple to provide a photometric study.

Stephen Buckley asked if they failed the photometrics, would they be required to upgrade the lights since they had been legally permitted. Mr. Brewton stated they were only required to meet today's Code for the area with the new improvements, and not the entire parking lot. He explained this was not retroactive.

Mr. Shrope stated that the sidewalks were a nasty issue for them because if they were to put sidewalks on the north property line, they would have to give the City an additional 20' of right-of-way which had just been given recently for drainage improvements, and it would reduce their parking overflow substantially. He further stated that if they did it on the south side where they were going to readdress their athletic fields, it would take their soccer field from being a regulation one to something less reducing it by 15%. He explained it would be very detrimental to reduce the athletic fields.

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Mr. Shrope further stated they had met with the President of the Edgewood Homeowners Association, and they supported this variance and did not see the need for a sidewalk. He explained there were minimal sidewalks in the neighborhood.

Chair Patricia Rathburn proceeded to open the public hearing.

Jack Pelsler, Parishioner of St. Jerome's, stated that in regard to the sidewalk on the north side, there was an existing one on the north side of the road and was more than adequate for the area. He stated the sidewalk on the south side would be devastating to the parents and student body because of loss of the athletic fields.

Stephen Buckley asked if there was a fence along 28<sup>th</sup> Street which separated the fields from the area. Mr. Shrope stated there was an existing fence around the playground area leaving about 15' for walking. Mr. Buckley asked why the sidewalk could not be installed in that 15' area. Mr. Shrope stated that the Engineering Department wanted it in the road right-of-way, but if that was done then everything would move to the north reducing the athletic fields. He stated if that was done, it would also deprive the site for on-site water retention. He stated further they had studied the site at great length in order to make things work, but this was the best plan as it existed today.

Fred Stresau remarked that sometimes the Engineering Department had a very narrow focus on problems, but if there was 15' existing between the property line and the existing fence, then he felt that was more than enough room to install a sidewalk. He remarked that normally such property was conveyed by an easement, rather than dedicating the right-of-way. He felt that an area near a school should have sidewalks. He stated that it appeared water drained off 26<sup>th</sup> Street onto the swale, and therefore, there might not be an opportunity to build a sidewalk at that site, but he felt it could be done on 28<sup>th</sup> Street.

Mr. Shrope stated that on 26<sup>th</sup> Street, they were the holding reservoir for the City in the area. He stated that 300,000 gallons of water went down 9<sup>th</sup> to SW 26<sup>th</sup> Street, and they had given the City road right-of-way for swales which had been installed improperly and the water drained onto the church property.

Brian Cohen, commercial property owner to the north of the site, stated that they abutted 26<sup>th</sup> Street, and they did not have a problem with the sidewalk on 26<sup>th</sup> Street. He explained since the turn lane on 84 had been taken away onto 9<sup>th</sup>, the water running down 9<sup>th</sup> to the property was very bad. He stated the lights for the neighborhood were fine.

Mr. Shrope stated that on the south property line the comment made that 15' was adequate space was not accurate because Code required street trees to be planted in the right-of-way and at the south property line they were equi-distant

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between the pavement and the fence, and were not laid out by a surveyor and wandered all over. He felt it was simplistic to state there was sufficient room for a sidewalk. He stated that Tim Welsh wanted a larger road right-of-way after viewing the site.

Fred Stresau stated there was still space between the trees and the fence for a sidewalk.

Mr. Pelsler stated that the trees in the area had root systems to be considered, and to the west the sidewalk would dead end into a wall which existed to the edge of the pavement. He stated there would be a sidewalk "to no where."

There being no other individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Jon Albee and seconded by Don Larson to close the public hearing. Board approved unanimously.

**Motion** made by Don Larson and seconded by Fred Stresau to approve the variance appealing Sec. 47-25.2(M)(4) regarding the traffic impact study. Roll call showed: YEAS: Stephen Buckley, Jon Albee, Fred Stresau, Don Larson, and Patricia Rathburn. NAYS: Scott Strawbridge. Motion carried 5-1.

**Motion** made by Fred Stresau and seconded by Stephen Buckley to approve the variance appealing Sec. 47-25.2(M)(6) regarding the elimination of a sidewalk along SW 28<sup>th</sup> Street. Roll call showed: YEAS: Scott Strawbridge, Jon Albee, Don Larson, Stephen Buckley, and Patricia Rathburn. NAYS: Fred Stresau. Motion carried 5-1.

**Motion** made by Fred Stresau and seconded by Don Larson to approve the variance appealing Sec. 47-25.2(M)(6) regarding the elimination of a sidewalk along SW 26<sup>th</sup> Street. Roll call showed: YEAS: Jon Albee, Fred Stresau, Don Larson, Stephen Buckley, and Patricia Rathburn. NAYS: Scott Strawbridge. Motion carried 5-1.

**Motion** made by Jon Albee and seconded by Fred Stresau to reconsider 5th motion made regarding the elimination of the sidewalk along SW 28<sup>th</sup> Street. Roll call showed: YEAS: Jon Albee, Fred Stresau, and Scott Strawbridge. NAYS: Don Larson, Stephen Buckley, and Patricia Rathburn. Motion failed 3-3.

**Motion** made by Fred Stresau and seconded by Don Larson to approve the variance appealing Sec. 47-20.14 to eliminate the requirement to provide a photometric lighting plan where otherwise required by Code. Roll call showed: YEAS: Don Larson, Stephen Buckley, and Patricia Rathburn. NAYS: Fred Stresau, Scott Strawbridge, and Jon Albee. Motion failed 3-3.

Jon Albee remarked that "sidewalks to no where were how the City got sidewalks. He apologized to the neighborhood. Fred Stresau stated it was for the entire length of the property. He felt this was very important.

**5. APPEAL NO. 04-35**

**APPLICANT:** North Broward Hospital Dist.-Fed Credit Union  
**LEGAL:** "Fort Lauderdale Industrial Airport Section 1,"  
P.B. 63, P. 10, Lot 13  
**ZONING:** AIP (Airport Industrial Park)  
**STREET:** 2350 W. Commercial Blvd.  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-22.4.(C) 9** – Seeking a variance to allow a wall sign that is 6% of the wall space, where wall signs are limited to 1% of the wall space in the AIP zoning district.

All individuals wishing to speak on this item were sworn in.

Robert Lochrie, attorney, stated that he was accompanied tonight by Dan Walker, the President and CEO of the Credit Union. He explained it was a Federally chartered credit union which served the staff and personnel of the North Broward Hospital District. He stated that the new facility located on Prospect and Commercial was located about 10 miles from every hospital, including Coral Springs, and was the central location for banking needs of the employees.

Mr. Lochrie explained that the property was located within the City's AIP. He proceeded to show photographs of the site and layout of the facility, and explained the surrounding properties. He showed the location of the current sign at the site. He stated the banking facility was a hybrid of uses in that it served customers, but was not a retail operation. He stated that Code provided they could have a sign up to 120 sq. ft. as a monument sign on Commercial Boulevard. In addition, they could have a sign on the building which was to be 1% of the size of the façade which consisted of about 10 sq. feet. He stated they were entitled to total signage consisting of 130 sq. feet. He explained they were not asking for signage on the west side of the building facing Prospect because there was a ground sign in the area. He explained they were requesting a sign for the north elevation.

Mr. Lochrie further stated that they already had a 60 sq. ft. ground sign, and therefore, were asking to use the additional 60 sq. ft. for a sign on the building itself.

Chair Patricia Rathburn clarified the variance request being made.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on the matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Jon Albee and seconded by Don Larson to close the public hearing. Board approved unanimously.

**Motion** made by Jon Albee and seconded by Don Larson to approve the application as submitted subject to the condition that the ground sign at the site would be limited to 60 square feet as currently existing.

Fred Stresau stated that he felt more and more sign requests were going to come before this Board, and until staff and the Commission passed a new sign ordinance this would be fought every month. He felt what the applicant had proposed, even though it did not meet the current Code, appeared more in keeping with how signs should read within the City.

Roll call showed: YEAS: Don Larson, Stephen Buckley, Scott Strawbridge, Jon Albee, Fred Stresau and Patricia Rathburn. NAYS: None. Motion carried 6-0.

**7. APPEAL NO. 04-38**

**APPLICANT:** City of Fort Lauderdale  
**LEGAL:** **Acreage in 13-49-42 less that portion dedicated for Right-of-Way for NE 44 Street as shown on "Coral Ridge Country Club Addition No. 3," P.B. 52, Page 14**  
**ZONING:** **P (Parks, Recreation and Open Space)**  
**STREET:** **4401 Bayview Drive**  
**ADDRESS:** **Fort Lauderdale, FL**

**APPEALING: Sec. 47-19-2(R) and Sec. 47-8.30** – Requesting a variance to allow five (5) light fixtures that are 15' in height to setback 5' from the front property line where 25' is required, and five (5) light fixtures that are 20' in height to setback 15' from the side property line where 25' is required in Bayview Park.

All individuals wishing to speak on this item were sworn in.

Alan Gavazzi, Architect for the City of Fort Lauderdale, stated they were requesting permission to install lights within the required setback of 25' in two areas of Bayview Park. The first was along NE 44<sup>th</sup> Street, along the existing parking lot that serviced the park, and were evenly distributed. He stated the lights would be 20' in height and set 15' back from the property line. He stated the other 5 lights would be placed along Bayview Drive, along the existing sidewalk along the street and would be evenly distributed along the property line. He stated the lights would be 15' in height and would be 5' back from the

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property line. He explained the lights were requested by the neighborhood representative for safety and security for individuals using the park in the evening. He further stated that a neighbor had raised the question in regard to the hours the lights would be on. He explained they would be on timers for a time mutually agreed upon by the residents and the City.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Fred Stresau and seconded by Don Larson to close the public hearing. Board agreed unanimously.

Fred Stresau asked why they were not going to meet the 20' setback requirement. Mr. Gavazzi stated it was due to the practicality of the lighting, and explained the further back they set the lights, the less effective they would be for the area they were attempting to light. Mr. Stresau further stated that he was forced to meet Code for every project he did regardless of the intent, and he felt the City should have to meet the same requirements of the Code as did the private sector.

Jon Albee stated that the burden on the City should be equivalent to that of the citizen, but he felt the standards were greater. He stated the City should set an example, and he felt there had to be design alternatives to the lighting scheme being proposed. He felt the City should be held to the same standards and follow the Code just like everyone else. He felt they should return to the drawing board and arrive at a different plan.

Mr. Gavazzi asked if a suggestion was being made that they provide a different type of lighting or to place them in a different location. Mr. Albee explained that he was not a lighting expert or a designer, but from his experience there always were alternatives available.

Chair Patricia Rathburn reminded the applicant there were 6 members on tonight's Board and 5 votes would be necessary for the variance to be granted. She stated that if the variance was denied, the City could not return to request the variance for 2 years. She suggested they think about deferring this matter for a month in order to review alternatives.

Mr. Gavazzi asked if the matter could be deferred one month.

**Motion** made by Scott Strawbridge and seconded by Don Larson to defer this matter until July 14, 2004, so that other alternatives could be explored. Roll call showed: YEAS: Stephen Buckley, Scott Strawbridge, Don Larson, and Patricia Rathburn. NAYS: Jon Albee and Fred Stresau. Motion carried 4-2.

**8. APPEAL NO. 04-39**

**APPLICANT:** 1900 Building Assoc. Ltd.  
**LEGAL:** Acreage in 16-49-42  
**ZONING:** AIP (Airport Industrial Park)  
**STREET:** 1800 W. Commercial Blvd.  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-19.(R), Sec. 47-14.21.C.2.a and Sec. 47-14.21.C.2.c –  
Requesting a variance to allow:

1. Three (3) 22' high light poles to set back 48' and a one (1) 22' high light pole to set back 62' from the front property line, where a 100' setback is required on West Commercial Boulevard;
2. Four (4) 22' high light poles to set back 3' from the west property line, where a 30' side setback is required and;
3. Two (2) 22' high light poles to set back 25' from the rear property line, where a 30' rear setback is required.

All individuals wishing to speak on this matter were sworn in.

Bill Keenan, one of the owners of the 1900 Building, stated that their intent was to build a 15,000 sq. ft. office building. He further stated that the City ordinance made it almost impossible to comply with the combination of the heights of the light poles, and the setbacks. He stated that the definition of a light pole in the ordinance considered it a permanent structure.

Chair Patricia Rathburn stated that was an interpretation issue, and asked if they were asking for one since it had not been advertised.

Mr. Keenan stated he was not going to ask for an interpretation at this time. He continued stating that this was a "Catch-22" situation, and they were unable to get the photometrics to comply.

Greg Edlund, architect, stated that this was a small portion of a site which had previously been developed. He explained that the geometrics of the site were pretty restrictive as to property lines and setbacks. He stated the building's position was the only place it could go, along with the parking. He further stated that with a larger site, the 100' setback would not be a hardship, but in this case it was a problem.

Jerry Goldman, lighting consultant, stated that he was certified and possessed an LC (Lighting Certified) which was a designation obtained through an organization funded by the Federal Government. He stated that in looking at the site, he had tried to do various things in order to get the levels of light within the 2' candle minimum required by Code. He stated on the drawings he used a cut-off luminary, but later found out about the 100' setback. He stated that he tried to go

back and make changes, but it was very difficult because he could not go into the islands because landscaping was designated for those areas. He remarked that he was limited in overall height which gave him only one option, and that was to use a floodlight, such as those used in ballparks. In good conscience, he stated that could not be done due to the glare that would occur. He stated he had the same problems on the sides of the building.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Fred Stresau and seconded by Jon Albee to close the public hearing. Board unanimously approved.

Fred Stresau stated that he agreed with the lighting consultant. He added that lights could be placed in the islands if palm trees were planted, but that would not help with the setback issues. He stated the area could be lit from the building, but then they would be exposing people on Commercial Boulevard from looking at the lights, whether they were shielded or not. He felt what they proposed was minimal and accomplished what had to be done. He stated that in regard to items 2 and 3, the setback was from the property line, but another parking lot was adjacent to the area, and it did not make sense to have a setback from a parking lot.

**Motion** made by Fred Stresau and seconded by Scott Strawbridge to approve the application as presented. Roll call showed: YEAS: Scott Strawbridge, Jon Albee, Fred Stresau, Don Larson, Stephen Buckley, and Patricia Rathburn. NAYS: None. Motion carried unanimously.

**10. APPEAL NO. 04-41**

**APPLICANT:** David Celentano  
**LEGAL:** Landings Second Section, P.B. 56, P. 37, Block 10,  
A portion of Lot 52 and all of Lot 53  
**ZONING:** RS-8 (Residential Single Family/Low Medium Density)  
**STREET:** 3001 NE 58 Street  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-19.5.B.1.a.ii – requesting a variance to allow a 6’ high opaque fence located along the north property line to the edge of the waterway where such opaque fence cannot exceed 2-1/2’ (30”) in height when located within 10’ of the edge of the waterway.

All individuals wishing to speak on this matter were sworn in.

David Celentano, property owner, stated that his neighbor’s property had been overgrown and improvements were being made since he purchased the property.



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He stated due to the unique shape of their lots, privacy would be lost without a fence being installed. Therefore, they were going to share the cost of a 6' fence along the property line. He stated the ordinance required it to be 30" in height at the last 10' so the water could be viewed. He reiterated that there was no view to be protected in this case.

Chair Patricia Rathburn proceeded to open the public hearing.

Christian Valaquette, homeowner, concurred with Mr. Celentano's statements.

There being no other individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Jon Albee and seconded by Fred Stresau to close the public hearing. Board approved unanimously.

Chair Patricia Rathburn stated that the properties were unique and they were not going to impact any other residents in the area, and the two individuals were attempting to resolve their situation.

**Motion** made by Don Larson and seconded by Fred Stresau to approve the application as submitted.

Jon Albee stated that he did not see the hardship in this matter, and it would impart a benefit to the two property owners which did not accrue to anyone else.

Roll call showed: YEAS: Don Larson and Patricia Rathburn. NAYS: Jon Albee, Fred Stresau, Stephen Buckley, and Scott Strawbridge. Motion failed 2-4.

**11. APPEAL NO. 04-42**

**APPLICANT:** Garrett Conheady  
**LEGAL:** Progresso, P.B. 2, P. 18, Block 46, Lot 9(D)  
**ZONING:** RS-8 (Residential Single Family/Low Medium Density)  
**STREET:** 1515 NE 18 Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-5.31** – Requesting a variance to permit the construction of a 408 sq. ft. garage to a single-family residence with a 21.06' front yard where the Code requires a minimum 25' front yard.

Garrett Conheady, property owner, stated that in October, 2003, he had applied for a permit to replace a carport with a two-car garage and foyer. He explained that in February, 2004 he had been issued a permit. After the forms were in place, he had to provide a spot survey showing the location of the slab. He was told by the survey company to proceed to pour the concrete because they did not do spot surveys on empty forms due to people having then moved them in the

past. The garage was bound on the west by the main structure with a driveway on the east. The surveyor stated that as long as he stayed within the footprint, there should be no problem. Unfortunately, after the slab was poured and walls erected, a new survey company inspected the form and stated they were into the front setback. He proceeded to submit a survey showing that the carport was 21' 6" from the setback, and therefore, what he now had did not encroach any more than what he originally had in the first place.

Mr. Conheady further stated that he had a letter of support from his immediate neighbors for the variance being requested, which he submitted to the Board.

Fred Stresau clarified that the Board was to have the plans from the Building Department. Chuck Wygant proceeded to distribute the building plans to the Board.

Stephen Buckley asked what was the difference between the carport setback requirements when built, and those for the garage. Mr. Brewton explained he did not have the older records.

Fred Stresau stated he was not concerned about the survey, and felt it was a mistake that the survey company did not come out and review the form. He stated that the site plan showed that the 25' setback had been met on the signed plans. Mr. Conheady confirmed.

Scott Strawbridge reiterated that it was the builder's job to lay out the form. He stated the architect drew plans which conformed to the Code, but unfortunately, it was not built within Code. Mr. Conheady stated he had put too much faith into those plans and used them as a guideline.

**Motion** made by Jon Albee and seconded by Fred Stresau to approve the application as presented. Roll call showed: YEAS: None. NAYS: Fred Stresau, Don Larson, Stephen Buckley, Scott Strawbridge, Jon Albee, and Patricia Rathburn. Motion failed 0-6.

**12. APPEAL NO. 04-43**

**APPLICANT:** BP Products North America, Inc.  
**LEGAL:** "Plat of Lauderdale" P.B. 2, P. 9, Block 126, Lot 19(D) together with a portion of Resubdivision of Lots 9-18, P.B. 35, P. 27, Block 126, Lot 2 together with a portion of "A Revised plat of Lots 19-18, Block 126 Lauderdale," P.B. 38, P. 48, Block 126, Lot 2  
**ZONING:** B-1 (Boulevard Business)  
**STREET:** 345 SW 24 Street  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-22.3(E)** – Requesting a variance for a free-standing sign to be located within 20' of the State Road 84(West) property line, where a 20' setback is required for properties located within the State Road 84 Interdistrict Corridor; and to allow such sign to be located within a 25' sight triangle, where signs are required to be located outside said 25' sight triangle.

All individuals wishing to speak on this item were sworn in.

Don Larson stated that he had not seen a sign at the site.

Rick Peters explained there were 2 signs facing both streets.

Rick Peters, Progresso Development Group, stated they were going to convert all Amoco Stations to BP Stations, and at this location they had received permits for everything except the price ID sign which existed. The problem was that they wanted to reface it saying BP with the price, but they had to meet a setback which would require moving the sign to meet Code, and that would put it by the pump island preventing cars from driving through the station. He remarked that it was a hardship.

Fred Stresau asked if the current sign code allowed this whether it was in the sight triangle or not. He stated they had a pylon sign (free-standing sign), along with a ground sign.

Chuck Wygant stated it should never have been permitted in the sight triangle. He remarked that when SR84 had been widened, he assumed they had taken some frontage from the station, and that was why the sign was now in the 25' sight triangle.

Fred Stresau asked if the sign was below 30", could it be in the sight triangle. Mr. Wygant confirmed. Fred Stresau proceeded to ask if both signs were permitted in accordance with today's Code. Mr. Wygant replied that the application was for the sign to be refaced, but he had rejected it due to the fact that it exceeded the overall height permitted on SR 84. The height had to be reduced to 14', and then they had to meet the current setbacks. He stated if they met the height allowance, the sign could remain at his present location.

Chair Patricia Rathburn clarified that they wanted to keep the same sign as it existed but reface it with BP. Mr. Peters confirmed. Mr. Wygant stated if they requested to exceed the height requirement, then it could remain at its location if the Board granted all the variances requested. He further stated they were not requesting to exceed the height. Chair Patricia Rathburn clarified further that if the Board granted the variance, they could not do what they wanted. Mr. Wygant confirmed. Chair Patricia Rathburn suggested that the applicant meet further with staff on this matter.

Chair Patricia Rathburn asked if the applicant wanted to consider deferring this item until July 14, 2004.

Mr. Peters stated he understood what the Board was attempting to explain.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Jon Albee and seconded by Don Larson to close the public hearing. Board unanimously approved.

**Motion** made by Fred Stresau and seconded by Jon Albee to defer this matter. Roll call showed: YEAS: Don Larson, Stephen Buckley, Scott Strawbridge, Jon Albee, Fred Stresau and Patricia Rathburn. NAYS: None. Board unanimously approved.

**“For the Good of the City”**

No items were discussed.

**Motion** made by Fred Stresau and seconded by Stephen Buckley to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 9:40 p.m.

CHAIRMAN

\_\_\_\_\_  
Patricia Rathburn

ATTEST:

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Margaret A. D'Alessio  
Recording Secretary

A mechanical recording is made of the foregoing proceedings, of which these minutes are a part, and is on file in the Planning & Zoning Offices for a period of two (2) years.

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