

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, MARCH 9, 2005 – 6:30 P.M.  
CITY HALL  
CITY COMMISSION CHAMBERS – 1<sup>st</sup> Floor  
100 N. ANDREWS AVENUE  
FORT LAUDERDALE, FL**

**BOARD MEMBERS**

	<u>Present/Absent</u>	<u>Cumulative from January 2005</u>
Gus Carbonell	P	3-0
Don Larson	P	3-0
Scott Strawbridge	P	3-0
Fred Stresau	P	3-0
Binni Sweeney	P	2-1
E. Birch Willey	P	3-0
Patricia A. Rathburn, Chairman	A	2-1

**ALTERNATES**

Al Massey	P	3-0
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**STAFF**

Robert Dunckel, City Attorney  
Don Morris, Acting Zoning Administrator  
Bruce Larkin, Business Enterprises Director

Margaret A. D'Alessio, Recording Secretary

**GUESTS**

Lawrence A. Martineau	Stephen Tilbrook
George Spadafora	Jim Boote
Gerald Morris	Alan Tinter
Asha Jamraj	Brenda Wood
Vickram Jamraj	Ben Wood
John George	Tony Ferren
Mike Bonnell	Jed Thompson
Al Franco	Joyce Franco
Christa Baumgart	James Rambin
Leslie Rambin	Arnold Jack
Jane Rambin	R. Gunn
Larisha Cozart	

## **CALL TO ORDER**

In the absence of the Chair and Vice Chair, Birch Willey stated that he was elected to act as Acting Chair and proceeded to call the meeting to order at approximately 6:45 p.m. and explained the procedure to be followed for tonight's meeting. The Board was then introduced.

## **APPEAL NO. 04-67**

### **Review of Scribner's Error on Final Order for Holy Cross Hospital, 4725 North Federal Hwy., Fort Lauderdale, FL**

Don Morris, Acting Zoning Administrator, stated that there had been a typographical error when this case had been initially heard. He stated that in the request the wording had been "...2<sup>nd</sup> floor expansion..." and they were actually requesting two additional floors. He said the matter had been raised by both Birch Willey and Chair Patricia Rathburn, and copies of the pertinent minutes were distributed to the Board Members and the relevant sections highlighted.

Don Morris stated that when the Order was prepared, based upon the minutes, the minutes did not reflect the change, and therefore, an error was made in the Order. He asked the Board to recognize that matter, and to approve changing the Order to read: "...allow for a two-floor expansion instead of a 2<sup>nd</sup> floor expansion."

Robert Dunckel stated that he had prepared an amended and corrected Order, and asked that the Board adopt the amendment to reflect a two-floor expansion. He proceeded to read such Order as follows:

"Final Order of the Board of Adjustment  
On Appeal No. 04-67

"This matter was presented to this Board on November 10, 2004 concerning the appeal of Holy Cross Hospital, Parcel "A", Holy Cross Hospital Plat, P.B. 139, P. 19, together with Tract "A", Coral Hills, P.B. 37, P. 20, also together with Coral Hills, P.B. 37, P. 20, Block 5, Lots 1 thru 4, Block 6, Lots 1 thru 17 and 19 thru 23, also together with a portion of Section 13, Township 49 South, Range 42 East – 4725 North Federal Hwy., Fort Lauderdale, FL and was revisited by the Board to review a Scribner's Error and after due consideration the Final Order of the Board executed December 1, 2004 is hereby amended and corrected to read as follows:

"Where the Appellant sought a variance from the Board under:

"**APPEALING: Sec.47-20.9(A)** – Requesting a variance to allow a previously approved two-floor expansion of an existing parking garage with 90 degree parking on ramps that have a a5.5% sloping grade, where the maximum sloping floor grade for 90 degree parking is 5%."

**Motion** made by Don Larson and seconded by Al Massey to approve the amended and corrected Order as presented and read. Roll call showed: YEAS: Binni Sweeney, Don Larson, Al Massey, Fred Stresau, Scott Strawbridge, Gus Carbonell, and Birch Willey. NAYS: None. Motion carried 7-0.

## **1. APPEAL NO. 05-13**

**APPLICANT:** Holy Cross Hospital

**LEGAL:** Parcel "A", Holy Cross Hospital Plat, P.B. 139, P. 19, together with Tract "A", Coral Hills, P.B. 37, P. 20, Block 5, Lots 1 thru 4, Block 6, Lots 1 thru 17 and 19 thru 23, also together with a portion of Section 13, Township 49 South, Range 42 East

**ZONING:** CF (Community Facility District)

**STREET:** 4725 N. Federal Highway

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-20.4(B)(2)(b) - Requesting a Temporary Non-Conforming Use Permit to allow off-site parking at Lockhart Stadium, which is more than 700' from Holy Cross Hospital where Code requires such off-site parking to be within 700' along a safe pedestrian path.

### **ALL INDIVIDUALS WISHING TO SPEAK ON THIS ITEM WERE SWORN IN.**

Stephen Tilbrook, attorney for the applicant, stated that some members of the Holy Cross Hospital team were present this evening, including Jim Boote, Chief Operating Officer; Gerald Morris, General Counsel; George Spadafora, Chief Engineer; and Alan Tinter of Tinter Associates.

Mr. Tilbrook stated that they wanted to provide an update to this Board regarding the parking garage expansion at the hospital. He proceeded to show an aerial photograph of the campus, and explained that the parking garage is located off Commercial Boulevard at the northern portion of the campus.

Mr. Tilbrook continued to state that they were requesting a temporary non-conforming use permit, and stated that they had been before this Board in November, 2004. He explained further that this involved a two-floor parking garage expansion above the 4<sup>th</sup> floor of the existing garage. He said there were about 600 spaces in the garage at this time, and the expansion is an integral component of the Master Plan for Holy Cross Hospital. He advised that expansions had occurred at the Cancer and Cardiac Centers, and the hospital itself which warranted the additional parking spaces. He stated permits were fully processed and close to being issued. He stated further that the pre-cast pilings were being created at this time.

Mr. Tilbrook explained that their plan is to build the garage expansion during the summer months and the fall when parking demands were not as great. He stated that tonight they were requesting this Board to approve an off-site parking plan because during the expansion the entire garage would be taken out of service due to insurance reasons. He stated they worked with Bruce Larkin and arrived at a plan to relocate parking to off-site locations. He stated the spaces would be provided at Lockhart Stadium, and they would provide transit into the City of Fort Lauderdale. He explained that four buses and two vans would be working daily making continuous trips from the off-site parking to the campus. He stated that this would be a feasible operation to replace the parking on a temporary basis.

Mr. Tilbrook restated that they were requesting a temporary non-conforming use permit in accordance with the Code which dealt with off-site parking in general. He stated the resources were to be within 700' of the site. He explained since there were no parking resources off-site on a temporary basis within the 700', they would relocate to Lockhart Stadium. He asked the Board to consider this matter and reminded them that no hardship is involved, but the standard was whether this temporary non-conforming permit is consistent with the public interest. He stated their objective is to bring these parking spaces in the new garage back on line as soon as possible, and hopefully that would occur within six months to a year.

Binni Sweeney asked if the City will be paid for the use of the parking lot. Mr. Tilbrook confirmed. Binni Sweeney asked further that the variance would only be for one year. Mr. Tilbrook confirmed and stated that the application actually stated six months, but he believed the permit is for one year. He added that they expected the construction to take 4-6 months. Binni Sweeney stated that there had been several problems in the past where individuals had requested a one-year variances.

Fred Stresau asked if any improvements were to be made at Lockhart Stadium, such as security and lighting. Mr. Tilbrook stated that security and bus shelters would be provided. He added that the lot is to be used during daytime hours only.

Gus Carbonell asked if only available spaces were going to be used at the Stadium, and stated that training schedules and other events might interfere with the available parking. He asked when the starting date would be for the permit.

Don Larson stated that spring training season would end by April 1, 2005.

Mr. Tilbrook stated they were working diligently with the City to address any events that might occur. He stated there were some other sites where parking could be used if the Stadium facility was not available. He stated that Bruce Larkin was present tonight to answer any questions regarding the facility at Lockhart Stadium.

Bruce Larkin, Director Business Enterprises, stated that 2,000 spaces were available at Lockhart Stadium, and the hospital would be using about 600 spaces. He proceeded to show a schematic of the site and explained the location of the available parking. He stated further that they had met with the School Board and the Orioles regarding this matter. He advised that the hospital spaces would be located on the east side of the Stadium in the southeast corner. He stated that the calendar of events for the next six months for the Stadium had been reviewed, and everyone was comfortable that there would be no issues with the scheduled events.

Acting Chair Birch Willey asked if the parking spaces would be marked and designated for hospital use only. Mr. Larkin confirmed and explained that temporary signage would be installed, and that a permit system would also be put into place.

**Motion** made by Don Larson and seconded by Binni Sweeney to close the public hearing and bring the discussion back to the Board. Board unanimously approved.

**Motion** made by Binni Sweeney and seconded by Al Massey to approve the item as requested.

Acting Chair Birch Willey stated that some discussion had revolved around the parking lot being used during daytime hours only, and asked if the Board's motion should reflect such language.

Motion amended as follows:

**Motion** amended by Binni Sweeney and seconded by Al Massey that language be included to specify daytime use of the lot only.

Scott Strawbridge asked if there was a problem regarding the lot being used at night.

Don Larson suggested that the motion be amended to include night time use as long as security is provided. Binni Sweeney stated that if there are activities at the Stadium at night, it could impinge on the people using the lot.

Mr. Tilbrook clarified that their agreement with the City specified that the period of time for available parking would be until 6:00 p.m.

Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, AL Massey, and Birch Willey. NAYS: Scott Strawbridge. Motion carried 6-1.

**Motion** made by Fred Stresau and seconded by Binni Sweeney to approve that the word “daytime” be included in the language for use of the parking lot at Lockhart Stadium. Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey and Birch Willey. NAYS: None. Motion carried 7-0.

## **2. APPEAL NO. 05-05**

**APPLICANT:** Vickram Jamraj

**LEGAL:** Tuskegee Park, P.B. 3, P. 9, Block 7, Lot 21

**ZONING:** RC-15 (Residential Single-Family/Medium Density District)

**STREET:** 432 N.W. 10 Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** **Sec. 47-19-5.B** – Requesting a variance to permit a 0’ setback where Code requires a minimum average setback of 3’ from the front property line when installing a chain link fence.

Ms. Jamraj stated they moved to the site about two years ago and problems arose. Suggestions were made for them to fence in their property, but the City required a 3’ setback, which would not permit her to park both cars on the property.

Fred Stresau stated that the fence code read as follows: “The linear distance along any one segment of the indicated accessory structure along a given property line abutting a street which is parallel to the property line and closer than 3’ cannot exceed 30% of the length of the lot.” He stated that the table provided in the chart stated that if a chain link fence is erected in residential zoning, than one could average 3’ which meant that in this case, if they went from the property line across the driveway, plus another 1-2 feet, than the fence could be constructed on the property line, and could step back 6’ once they passed the driveway. He stated further that he would assume that 30% of a 50’ lot would be 15’, and they actually needed about 17’. He continued stating that he felt the variance was needed due to the physical layout of their driveway, but he was not sure it needed to run completely across the lot.

Acting Chair Birch Willey asked if the applicant understood that a jog could be done in constructing the fence. Ms. Jamraj stated that they did not understand that could be done.

Don Morris stated that regarding all variance requests, staff met with the applicants to discuss the issues that might arise. He stated that these individuals were having a problem with vandalism. He further stated that this option was discussed, but it would not work in this case due to cutting off too much of their front yard.

Al Massey asked whether they considered widening the driveway so the cars could still park on the property.

Ms. Jamraj stated they had a small space in the front of the house for parking, and they could not afford to widen the driveway. She explained the vandalism that was taking place at her property. She stated they wanted to fit the cars inside the property and she did not want to park elsewhere.

Gus Carbonell asked about the garage on site. Ms. Jamraj explained there is a small garage, but it was presently used for storage. Gus Carbonell stated that normally he did not have a problem with chain link fencing as long as landscaping is provided around it.

Don Larson stated that it was evident that a problem existed at the property and he agreed with the Code, but sometimes there had to be "give and take" regarding such matters. He stated further that regarding chain link fences, he did not like the fact that they went right up to the sidewalk and individuals could get hurt on them. He stated at the front, if they could move 1' back off the sidewalk and bring it back even to the sidewalk with the driveway, and then take it back to the offset, he would agree to it. He stated he did not want it to go back 4' – 5' into the front yard since it was so small.

Binni Sweeney asked if the applicant understood the landscape requirements. Ms. Jamraj stated that she did not know about the landscape requirements.

Gus Carbonell stated that the suggestion is a good compromise because landscaping could be done in the 1' area in front of the fence. He added that this area was in transition. Ms. Jamraj stated that her plants had been destroyed with the vandalism. Gus Carbonell stated that these problems would eventually be taken care of. Ms. Jamraj stated that the residents were afraid to have the neighborhood change and did not want outsiders coming in. She said that other neighbors were having the same problems.

Binni Sweeney asked if any of the neighbors had fences to the sidewalk. Ms. Jamraj stated they did not, but they had the same vandalism problems occurring. Binni Sweeney reiterated that if the variance is granted, the rules would have to be obeyed. Therefore, if a fence is constructed, then landscaping had to be provided.

Robert Dunckel stated that questions had been raised on more than one occasion by this Board if granting a variance set a precedent. Generally, that was not the case, and normally when such things arose it dealt with setback issues, such as the footprint of the house. He proceeded to refer the Board to the survey included in their packet of information. He stated that to the left of the survey, there is a portion of Block 7 and all lots were identical. He advised the Board that what is done tonight would apply to those similar lots. He stated that in Court, there would be difficulty distinguishing the lots.

Don Larson stated that there is a short distance in this case between the sidewalk and the house itself, and if a 1' variance is granted, he felt they could live with that. He suggested that the fence be kept as close to the sidewalk as possible due to the problems occurring in the area.

Gus Carbonell stated that in looking at the survey, they already have a 1' area for planting.

Fred Stresau stated that a lot of time was spent developing the fence code, and he felt the Board needed to remember that a 6' chain link fence is being requested. He believed it would have a great

impact on the neighborhood. He stated that the Code could probably not be met without some type of variance, but he is opposed to the direction being taken by the Board at this time.

Scott Strawbridge stated that the driveway is 25' from the property line to the garage door, and adjacent there is a 9' section, along with a 3' sidewalk. Therefore, it left 19.3' available for widening the driveway. Then, the fence could be brought in and the problem would not exist.

**Motion** made by Binni Sweeney and seconded by Don Larson to close the public hearing and bring the discussion back to the Board. Board unanimously agreed.

**Motion** made by Binni Sweeney and seconded by Scott Strawbridge to approve the variance as requested. Roll call showed: YEAS: None. NAYS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. Motion denied 0-7.

### **3. APPEAL NO. 05-06**

**APPLICANT:** Benjamin and Brenda Wood

**LEGAL:** C.J. Hector's Re-subdivision of Rio Vista, P.B. 1, P. 24, Block 12, Lot 9

**ZONING:** RS-8 (Residential Single Family/Low Medium Density District)

**STREET:** 622 S.E. 11 Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** **Sec. 47-19-2.B** – Requesting a variance to permit an architectural feature (roof eave) to extend 28.3" into the required yard, where Code permits such architectural features to extend into the required yard 3' or 1/3 the amount of the required yard, whichever is less. The required yard is 5', therefore the roof eave may extend 20" into the required yard; and to allow such roof eave to encroach into the required yard area for a total combined linear façade length greater than 20% of the total linear length of the façade where Code limits such encroachments to 20" of the total linear length of the façade.

#### **ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.**

Benjamin Wood, applicant, stated that they had completed an addition to the rear of their house last year, and found at the final inspection that the roof eave encroached into the side yard by about 8". He asked the Board to consider granting the variance permitting such an extension. He further said the roof line is consistent with the original roof line. He stated that the adjacent neighbors were in favor of the granting of this variance.

Binni Sweeney stated that she did not see a posted sign at the property. Mr. Wood stated that the sign is located on the side of the house.

Fred Stresau stated that he felt the sign was difficult to see, and suggested that staff should instruct the homeowners regarding the location of such signs. He stated that he believed the signs should be placed on the front property line so there would be no problem seeing it.

Mr. Wood stated that he had asked when picking up the sign regarding its location, but had been told that it could be placed anywhere on the property. Fred Stresau stated that about 20% of the applicants coming before this Board had to come back the following month due to the sign not being posted properly. He reiterated that the signs should be placed on the public right-of-way.

Scott Strawbridge asked if a contractor had been involved in the construction of the addition. Mr. Wood confirmed. Scott Strawbridge stated that the plans did not appear to meet code when submitted. Mr. Wood stated that he was not an architect, but it did appear there is a jog in the plans. He stated further that the contractor instructed that the trusses be built to conform with the original roof. He assumed it had been approved by the architect because all inspections had passed up to the final one. Scott Strawbridge stated that the architect should have caught the problem, and sometimes it appeared individuals were "begging for forgiveness" instead of "asking for permission." He further asked how this passed the City's scrutiny. He asked whose responsibility was it.

Acting Chair Birch Willey advised that letters were received from adjacent neighbors who were in favor of the variance. Scott Strawbridge stated that he was in support of the variance, but he was puzzled why this matter was being heard tonight.

Binni Sweeney stated that she agreed with Scott Strawbridge and said that in redoing her home certain items had been changed for 1/2" compliance.

Gus Carbonell stated that such errors were common. Mr. Wood stated that his contractors had done great work.

Acting Chair Birch Willey stated that they were talking about a 75' stretch of which only 18' were involved. Mr. Wood stated that the original house is in compliance with the code.

**Motion** made by Don Larson and seconded by Binni Sweeney to close the public hearing and bring the discussion back to the Board. Board unanimously approved.

**Motion** made by Don Larson and seconded by Binni Sweeney to approve the variance as requested.

Al Massey asked if this discussion revolved around a mistake which had been made. He stated he was slightly confused. He felt possibly the applicants would not be responsible for the cost in resolving this issue in order to comply with the code.

Acting Chair Birch Willey stated that it was his understanding that this is an accomplished fact, and the line of the roof is in and an error was made causing an 8" overhang. Mr. Wood confirmed.

Fred Stresau stated that the architect's drawings clearly showed that the construction and the overhang recognize the required setback. He stated further that when applications came forward regarding additions, and there was a slight discrepancy in the side yard setback of 3" to 4", the Board approved the reduction of the required setback so the building face aligns. In looking at the pictures provided in this case, it appeared the eave line is consistent with the existing building. He stated the structure looked better as constructed, than it would if there was a 4" to 6" offset. He stated that he was annoyed because these matters came to light after the fact. He reiterated that this Board almost unconditionally has approved minor changes in the setbacks, and therefore, he would support this request.

Don Larson stated that as a builder he found in the past that if the offset could be matched on the roof eaves, they would be better off. He stated the matter should have been brought up before the permit was pulled, but that had not been done. He reiterated that the architect and contractor should have been present this evening to represent the owner.

Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. NAYS: None. Motion carried 7-0.



**4. APPEAL NO. 05-07**

**APPLICANT:** Tony Ferrari

**LEGAL:** "Lauderdale Isles No. 2" P.B. 41, P. 10, Block 12, Lot 18

**ZONING:** RS-5 (One-Family Detached Dwelling District)

**STREET:** 2606 Whale Harbor Lane

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 39-275.3.C** – To allow a deck to setback 0' from the side and rear property lines where a 5' setback is required.

**APPEALING: Sec. 39-275(12)a** – To allow a dock to setback 10" from the side (south) property line and 7.5' from the side (north) property line where a 10' setback is required.

**ALL INDIVIDUALS WISHING TO SPEAK ON THIS ITEM WERE SWORN IN.**

John George, attorney for the applicant, stated that one variance is being requested for a deck and would be built from property line to property line without any setback. He explained there is a wall on both sides of the property and he wanted the deck to extend to that wall. He further stated that it was his understanding that the code in the City permitted this, but the County code did not which still applied even though the property had been annexed into the City. He stated that City codes had not yet been applied to the area.

Mr. George stated that the applicant is seeking to put a dock 30" from the seawall extending outward. He stated the old dock and others in the area extend out about 60". He stated the applicant would bring it in 36" from the middle of the wall to the end of the dock. He proceeded to show photographs of the dock and area. He stated that on the southern end there would be no setback to the property line, and on the north side it would come within 4' of the property line. He reiterated that the City code did permit this.

Don Morris stated that this area had been newly annexed by the City, and they were still in the process of re-certifying land use. He added there is an agreement with the neighborhood to "Save Our Homes" and special zoning could be written for the area. Currently, the County code applied and such requirements had to be followed.

Binni Sweeney asked for further clarification of the words "special zoning." Don Morris explained that when the City annexed the Riverland area, part of the annexation agreement was that they were to recognize the area had special characteristics, and such characteristics may or may not conform with the current code requirements, such as accessory structures and other things on the properties. He further stated that the City at that time agreed they would consider rezoning for the area incorporating some of its unique design characteristics. Binni Sweeney asked how that would affect the property in question. Don Morris stated that they had not yet identified such characteristics. He stated they had to meet with the neighborhood in order to find out their wants and needs. In the past, he was not able to comment whether this would be allowed in the City when such rezoning would be done. He stated that he did not know what the new requirements would be.

Fred Stresau asked how many people were working on the current zoning for this area, and when this would be brought to the Commission for approval. Don Morris stated he could not answer that, but stated they were currently re-certifying the land use which was the first step. He added they had not yet done anything in regard to writing new zoning classifications for the area.

Mr. George stated that this did not differentiate from what already existed, and stated the entire area is lined with docks which extended out 60". He stated there is no issue regarding right-of-ways, nor maneuverability of vessels passing through the area. He reiterated that the requested dock would be shorter than the other docks and would be 30" from the wall to the end of the dock. He stated the deck was in conformity with the City's code going from property line to property line. He reiterated there was nothing unusual about the deck or the dock, except for the fact that the County required a 10' setback for both. He added that few docks in the area were compliant with the 10' setback, and many extended beyond the property lines. He proceeded to distribute photographs of the area to the Board.

Don Larson asked how much green space would be provided in the area from the dock back to the deck. Mr. George replied there would be no green space between the dock and the deck.

Fred Stresau asked if the deck would be at grade. Mr. George stated that the deck would be on the ground. Fred Stresau asked what the height of the deck would be in relation to the seawall. Mr. Ferrari stated that it would be 8". Fred Stresau stated that he wanted to see the photograph because there is a section in the code which addressed decks above grade. He reiterated that he wanted to make sure the applicant understood that the deck would be level with the top of the seawall. Mr. George stated that it would not be above the seawall, but would be at grade with it.

Mike Bonnell stated that he lived 3 houses down from the applicant. He stated they lived in the City and paid taxes to it, and lived in an old neighborhood which had all types of docks and fences. He felt everyone should be under the same zoning guidelines.

Jed Thompson stated that he lived next door to the applicant. He reiterated that there is a lot of confusion regarding how these things worked, and he realized the Board was challenged with various issues. He stated there is no clear cut decision regarding these matters. He said the applicant had a 6' 6" retaining wall on a shared property line, and he was informed he had to put up a fence next to the wall for his swimming pool. He stated they were annexed into the City of Fort Lauderdale, and they wanted the same lateral zoning as everyone else in the City. He stated further that he wanted to build his deck to the wall in the same way, and he felt they had the right to do that as taxpayers of the City.

Al Massey asked if this is allowed by the existing code. Don Morris explained that in regard to docks, they could go to the property line, but boats had to maintain the setback of the structure. He further stated that the requirement stated that at-grade decks shall be permitted in all zoning districts within the front, rear or side yards, but shall not exceed the finished floor elevation of the ground floor of the principal building or buildings. He stated there is no required setback for an at-grade deck.

Robert Dunckel stated that earlier Don Larson had mentioned a 5' setback, but explained that this is an RS-5 under the County Code, and the City had no corresponding provision. He stated that staff had not determined, nor had anything yet been adopted, regarding an appropriate setback for the County's corresponding RS-5 district. He further stated that there were some unique neighborhood characteristics or traits off Riverland Road, and when staff begins drafting the zoning provisions for the area, there appeared to be a covenant with the residents in Riverland that they would capture such unique traits or characteristics. He stated the Board should probably look to the existing conditions in the neighborhood, while looking at the corresponding provisions in RS-4.4 or an RS-8 district. He stated there might be differences.

Don Larson asked the applicant for further explanation regarding the deck he was bringing out from his house. He asked further if the angle of the landscaping would be changed. Mr. George explained it would be at-grade level.

Al Franco stated that he lived across the canal from the applicant. He stated that when the properties were developed along the canals, they had figured in the docks, along with the turning radius of the boats. He stated the only reason someone would want their dock to be the full length of their property would be if they wanted to run a marina. He further stated that the code did not permit the renting of docks in a residential area. He stated that part of the problem with this request is that it would prevent boats from turning around in the area. He continued stating that the applicant had driven pilings in that would be used to build apartment buildings, and he did not understand how permits had been issued. He added that the City had informed him that permits had been applied for regarding the pilings, but they had never been issued. He stated the pilings had gone in during the last 3 months or so. He stated the area was still under the County code and proceeded to produce a letter stating such that had been sent to the President of the Lauderdale Isles Association. He proceeded to show photographs of the property in question.

Acting Chair Birch Willey stated that this information is important, but they were getting away from the question of the variance.

Mr. Franco stated that part of the variance was in regard to the dock, and reiterated that the turning radius for the boats was in question. He stated further that the applicant had been doing whatever work he wanted and not paying attention to the rules. He continued stating that it appeared the applicant was going to walk this through with no objections, but he would not let that happen.

Christa Baumgart stated that she was the neighbor to the north of the applicant, and wanted to understand the first paragraph which stated: "A deck to setback 0' from the side." She stated it was her understanding that meant the deck would extend to the property line. She further stated that there was a wall there which was 2" behind the property line, and therefore, asked how the deck could extend to the property line.

Scott Strawbridge explained that the deck would extend to the wall and it could go 2" beyond that wall, if the applicant had the right to build higher than the wall. Ms. Baumgart asked if the wall was going to be the base. Scott Strawbridge stated that the wall would be the end of it, and what was being requested was physically impossible to do. He further explained that at a later date, if he or a new resident tore down that wall, then it appeared they could build a new deck which could come to the property line. He stated that the rights would run with the land. He explained that it appeared there was a difference in what the applicant requested, and what he wanted to do. He stated that once he obtained the rights, he could fulfill whatever was stated in them.

Ms. Baumgart further stated that if 10' was required for the docks, then it should apply for everyone. She stated that she was opposed to the variance. She further asked how far in would the deck be from the water which was to be grade level. Acting Chair Birch Willey replied that it would be 4'. Ms. Baumgart stated that she had severe water problems due to everything being raised by several feet. She asked if the subject property had been viewed from her side which is the north side.

Scott Strawbridge asked for some further clarification on the grade issue since it would impact his vote.

Ms. Baumgart proceeded to show before and after pictures of the site.

Scott Strawbridge stated that he believed there is a simple solution to the problem, and they needed to condition the variance on the basis that the deck be flush with the seawall at a level not to exceed a certain amount of height above the seawall cap.

Don Morris said there is a definition of grade in the measurement section. Scott Strawbridge stated there is also a reference that states it goes back to the lowest finished floor. Don Morris proceeded to read the language as follows: "At grade shall be permitted in all zoning districts within the front, rear or side yards, but shall not exceed the finished floor elevation."

Joyce Franco stated that the neighborhood is making a transition to Lauderdale Isles, and there has been an agreement with the City. She stated that she is concerned that in tonight's agenda it stated that the reason a person might obtain a variance is due to a hardship. She continued stating that whatever is done will be lovely. She stated that this area was one of the furthest places inland where there are no fixed bridges and sailboats can reach the ocean. She emphasized the area is unique, but if everyone began ignoring the rules, then there will be problems. She asked what if granting a variance caused neighbors a hardship. She stated they needed to be able to turn their boats around. She asked what hardship the applicant would endure if the dock was slightly shorter because she did not feel it was necessary to have a 65' dock unless they wanted to just impress individuals. She stated further that if everyone did this, then they would only be able to navigate canoes up and down the water.

**Motion** made by Don Larson and seconded by Binni Sweeney to close the public hearing and bring the discussion back to the Board. Board unanimously approves.

**Motion** made by Binni Sweeney and seconded by Don Larson to approve the variance as requested in accordance with Sec. 39-275.3.C.

Scott Strawbridge stated that he wanted to see more definite limitation regarding the height and perhaps it could be tied to the seawall. He further stated that he was not familiar with the County's rules regarding setbacks for a boat, but if the Board is going to grant the variance for the dock, then it should carry setbacks for the boat along with it which are comparable to the ones in a comparable zoning district.

Binni Sweeney stated that her motion was to approve the variance as written and she would not accept any amendments.

Fred Stresau stated that he felt the hardship in this matter was that there is a County and City zoning involved which are conflicting. He stated further that it appeared reasonable that before this Board voted on the matter, drawings should be presented showing exactly what the applicant intended to do. He continued stating that he was inclined to approve the variance, but he wanted to see what is really being proposed. He stated that the cross section was missing. He asked if possibly drawings should be shown to the Board, and that they not give the applicant a free check to write whatever he wanted.

Mr. George stated that such drawings could be provided, and requested that this application be withdrawn until that was done.

Fred Stresau stated that instead of voting against the variance, he would prefer to review the drawings. He added that he would not vote in favor of the variances as it now stands.

Acting Chair Birch Willey suggested that the matter be tabled to a time certain so that the drawings could be presented to the Board.

Mr. George requested that the item be tabled so such drawings could be provided.

**Motion** made by Binni Sweeney and seconded by Don Larson to withdraw the previous motion to approve. Board unanimously approved.

**Motion** made by Fred Stresau and seconded by Binni Sweeney to table this matter until April 13, 2005. Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. NAYS: None. Motion carried 7-0.

Mr. George clarified that a permit had been pulled and approved for the pilings and had been signed-off on.

**5. APPEAL NO. 05-10**

**APPLICANT:** James S. Rambin

**LEGAL:** Parcel 1, "Revised Plat of Yellowstone Park," P.B. 23, P. 33, Block 4, a portion of Lot 4 and all of Lot 5 together with Parcel 2, Block 5, a portion of Lot 1 together with Parcel 3, "Revised Plat of Mrs. E.F. Marshall's Subdivision" P.B. 1, P. 2, a portion of Lot 6.

**ZONING:** RS-8 (Residential Single Family/Low Medium Density District)

**STREET:** 1317 SW 17 Street

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-5.31 – Requesting a variance to allow an 8' setback from the waterway to match existing setback where the Code requires a minimum 25' setback when abutting a waterway.

James Rambin stated they had a unique situation and a legitimate hardship because his 95 year old father-in-law is living with them. He continued stating that originally their house was a two bedroom/one bathroom house when constructed in 1951. He stated that additions were constructed in 1990 making it a three bedroom/two bathroom house. He further stated that they needed to add onto the house to accommodate his wife's father. He explained they wanted to add a 20' room adjacent to the carport and build a second floor master bedroom over it. He proceeded to show drawings of the property and proposed construction. He stated that the property already is non-conforming. He stated that the structure would support a new addition. He added that building the addition as proposed would not infringe on anyone else's property.

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

Binni Sweeney asked how many notices had been sent out and how many responses had been received. Don Morris replied that 42 notices had been mailed and no responses had been received.

Robert Dunckel stated that if the Board granted this variance, he suggested that they consider attaching a condition to it so it would only apply to the dimensions of the addition, rather than any other portion of the property.

Acting Chair Birch Willey stated that letters had been received regarding the variance. One letter was in favor and two were opposed to the variance.

**Motion** made by Don Larson and seconded by Fred Stresau to approve the variance with the condition that it only apply to the dimensions of the addition in accordance with the plans submitted to the Board.

Fred Stresau stated that he felt everyone on the Board is aware that the setback on a waterway is created to have air space, light and vistas, and he felt this property is unique in the fact that the canal stepped

back about 75' to 80' creating a large body of water. He felt the application was reasonable within the framework since it was a unique piece of property.

Binni Sweeney stated that she understood the comments being made, but she had a problem with the building going out to the property line. Mr. Rambin stated they were not going to the property line, but only within 5' of the neighbor's property line on the west side.

Scott Strawbridge stated that he did not feel the situation with the applicant's father-in-law to be a hardship, but added that the land is unique.

Acting Chair Birch Willey stated that this was a unique situation based on the property itself.

Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. NAYS: None. Motion carried 7-0.

## **6. APPEAL NO. 05-11**

**APPLICANT:** Annell Jack

**LEGAL:** Fairmont, P.B. 36, P. 4, Block 3, Lots 12 and 13

**ZONING:** RS-8 (Residential Single Family/Low Medium Density District)

**STREET:** 691 S.W. 30 Terrace

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-5.11 – Requesting a variance to allow a small child care facility for up to 25 children where such use is not permitted in the RS-8 District.

Annell Jack stated that she was requesting this variance for a small child care facility. She stated that she was only permitted to have 12 due to her license, but wanted to plan for the future.

Acting Chair Birch Willey asked what use is permitted for the area.

Don Morris advised that a family child care facility is permitted up to six children.

Scott Strawbridge asked about the hardship involved. Ms. Annell stated that she wanted to have a large child care facility. Scott Strawbridge proceeded to read one of the requirements for the obtaining of a variance as follows: "Special conditions and circumstances affect the property which prevent reasonable use."

Ms. Jack stated that her house was on two lots, and she further stated that she had been approved by licensing for a larger child care facility. Scott Strawbridge asked if there were any peculiarities associated with her property or others in her area. Ms. Jack stated that her house and lots were the biggest in the area. Scott Strawbridge asked if the zoning code was applied, what property rights would she be denied. Ms. Jack stated that nothing would be taken from her. She added that she had been in the business of child care for over 5 years. She stated that she was going to apply for an occupational license for the facility, and went to school to receive the necessary training. She added that her assistant was also qualified. She stated that she wanted a larger facility and prepare them for entrance to ZPK School.

Scott Strawbridge stated that in the application, the applicant had stated that the hardship was not self-created, but he believed it was self-created. He stated that the hardship could not be about money. Ms. Jack stated it was not about money. Scott Strawbridge reiterated that Ms. Jack was attempting to enlarge

her business. He stated that the Board was looking for something unique to the land. Ms. Jack stated that she developed a reputation with the children she worked with in the past. She admitted that money was a necessity for life, but she wanted to run a larger facility. She stated that she did not have the available funds to purchase another facility.

Scott Strawbridge asked how many children were permitted at this facility. Don Morris proceeded to read the definition as follows because he said there is not just one number and it depended on the age of the children. "An occupied residence in which child care is regularly provided for no more than five pre-school children from more than one unrelated family and which receives a fee, payment or grant to compensate for any children receiving care whether or not operated for profit. The maximum number of five pre-school children includes pre-school children living in the home, and pre-school children received for child care who are not related to the resident care giver. Elementary school siblings of the pre-school children received for child care may also be cared for outside of the school hours provided that the total number of children, including the care givers own and those related to the care giver, does not exceed ten."

Acting Chair Birch Willey confirmed that the maximum number of children permitted would be ten. Scott Strawbridge clarified that five full-time, and five part-time would be allowed. Don Morris further clarified that five pre-school children would be allowed, plus the school age children, totaling ten. Robert Dunckel confirmed.

**Motion** made by Binni Sweeney and seconded by Don Larson to close the public hearing and bring the discussion back to the Board.

Acting Chair Birch Willey stated that there were two letters sent in regard to this matter, and both were opposed to the granting of the variance.

**Motion** made by Binni Sweeney and seconded by Al Massey to approve the variance as requested. Roll call showed: YEAS: None. NAYS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. Motion failed 0-7.

## 7. APPEAL NO. 05-12

**APPLICANT:** Roger A. Grimes (AHM Church of God in Christ)  
**LEGAL:** Parcel 1, Progresso, P.B. 2, P. 18 (D), Block 273, Lots 45, 46, 47 and 48  
**ZONING:** RMM-25 (Residential Mid-Rise Multi-Family/Medium High Density District)  
**STREET:** 744 N.W. 12 Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-22.3.E.2** – Requesting a variance to permit a free-standing sign, 64 sq. ft. aggregate, where the Code allows a free-standing sign that is 32 sq. ft. aggregate.

**APPEALING: Sec. 47-22** – Requesting a variance to allow 65% of the sign to be changeable copy, where changeable copy is not permitted by Code.

### **ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.**

Roger Grimes stated that the Church is requesting the variance in order to be allowed the sign. He continued stating that they were involved in the community in regard to rehabilitating, feeding, clothing and educating the residents. He stated the sign is needed in order to communicate on a regular basis the

matters involving the community, and announcing the events taking place. He stated there were three churches in the area that already possessed the type of sign being requested.

Mr. Grimes further stated that they were located on a corner and the sign could be read from all directions. He believed that larger copy could be read more easily from passing cars.

Don Larson asked if the sign would have lights at night. Mr. Grimes explained there were fluorescent lights behind the sign. He added that the lights can be controlled, but he felt the light would be welcome in this neighborhood. He stated that they had an agreement with the Police Department, and had spent a large amount of money installing lights around the property. He continued stating that he did not think the light would be a nuisance to the neighborhood. He added there presently is no sign on the property.

Binni Sweeney stated that she did not think the existing signs at other churches were more than 8' square.

Scott Strawbridge asked about the height of a sign permitted in this district. Don Morris stated that in residential zones detached free-standing signs shall not exceed 10' above grade of the street closest to the sign. Scott Strawbridge added that the proposed sign is 9'.

**Motion** made by Don Larson and seconded by Fred Stresau to approve the variance in connection with Sec. 47-22.3.E.2.

Robert Dunckel stated that staff was presently working on a new sign code. He advised that he had reviewed the provisions in accordance with the new sign code, but did not know when it would be implemented. He stated that in regard to the first item under the revisions in the sign code, they would still remain at 32 sq. ft., and they are going to permit changeable copy, but it would be limited to 50% of the service area of the sign.

Roll call showed: YEAS: Don Larson and Scott Strawbridge. NAYS: Fred Stresau, Binni Sweeney, Gus Carbonell, Al Massey and Birch Willey. Motion failed 2-5.

Acting Chair Birch Willey stated that without the size of the sign, the second item is somewhat moot. Fred Stresau remarked that the request had been made, and therefore, the Board should vote on the item.

Robert Dunckel stated that theoretically, they could still do a 32' square sign. Acting Chair Birch Willey confirmed and added that they could request the right to have 65% of changeable copy.

Mr. Grimes stated that the population has to be able to read what is placed on the sign, and they were dealing with individuals who did not read well. He felt if they did not take the extra step, the individuals would not meet them half-way. He stated their work is not done for profit, but for the betterment of the neighborhood. He stated when the code was written, it was done so with the consideration that everything should be equal. He stated they beautified the property and then the City joined in feeling it was safe to do so. He stated they were attempting to try and attract younger people into the church, where they could be educated on all matters. He felt the Board was not considering that and were looking at this from a practical angle.

**Motion** made by Fred Stresau and seconded by Gus Carbonell to approve the variance in connection with Sec. 47-22. Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, and Birch Willey. NAYS: Al Massey. Motion carried 6-1.



Mr. Grimes asked if the failed item could be appealed because he did not feel that the Board gave their full consideration to the matter. He believed the community would be impacted by the hardship. Robert Dunckel stated that there were two avenues of recourse available to the applicant. He stated that one option is that within 30 days of the execution of the Order, a Writ of Certiorari in Circuit Court could be filed, which was basically an appeal. The other course of action available is to file under what is known as the Land Use Dispute Resolution Act, and a Special Magistrate is appointed with the concurrence of both parties. He explained a hearing would be scheduled before the Special Magistrate and if he finds that the Board of Adjustment unreasonably denied the variance or by virtue of the denial of the variance that the property has been unfairly burdened, a recommended Order would be prepared and submitted to the City Commission, who would consider what the appropriate relief should be.

Fred Stresau asked when the new sign ordinance would be completed. Don Morris stated that he could not answer that question, but that it had been written and was still being reviewed.

### **“For the Good of the City”**

#### **Case No. 04-48, The John Needham House**

Acting Chair Birch Willey stated that questions arose regarding this matter, and asked if further clarification could be provided by the Assistant City Attorney.

Robert Dunckel stated that at a City Property and Right-of-Way Committee meeting about two weeks ago, he ran into Ron Mastriana and had informed him that this matter would be discussed by the Board once again at the March, 2005 meeting. Mr. Mastriana advised him that the Dawn Doyle House was under contract for sale, and it appeared that Regency was no longer interested in pursuing the option presented to the Board previously. He stated that Mr. Mastriana requested that the matter be deferred until April 13, 2005, at which time the contract would be hard or the matter would have closed. He further stated that the draftsmanship of the Order would then become moot.

Acting Chair Birch Willey stated that this matter needed to be put to rest. He reiterated that the matter was not the contract, but whether the variances as granted were properly written, and whether they would travel to Mrs. Doyle or to Mr. McDonald, and not traveling to the land alone. He stated further that this Board needed to put together what their offer was regarding variances. He felt if the house was sold, then the new owners could request the variances. He reiterated that he did not feel it was a moot question, as long as the house existed and the variances were still on the table.

Robert Dunckel stated that there were three factors in his analysis. The first factor was that they were seeking a variance for the property to be used as an accessory use to the Regency, and he was informed that was no longer the case. He stated that in and of itself makes the entire episode moot. In addition, there also had to be ownership vested in either Dawn Doyle or John McDonald. He stated that Mr. McDonald was deceased, and Ms. Doyle was about to divest herself of ownership. He stated the three most important ingredients were not yet moot, but about to become so.

Acting Chair Birch Willey asked if this matter should be tabled to a later date so the Board would not lose total control. He suggested that this matter be tabled until the April meeting. Robert Dunckel agreed that the matter should be tabled. He stated the mootness had not yet taken root, and he felt it would be appropriate to have Mr. Mastriana attend the meeting since he represented the parties, and if there is a different outcome or view he should be heard.

**Motion** made by Binni Sweeney and seconded by Don Larson to table this matter until April 13, 2005.

Don Larson stated that since Mr. McDonald is deceased and the variance was based on his being alive, he asked if that would make things void. Robert Dunckel stated that one of the interpretations was that ownership of the house had to be in either Dawn Doyle or John McDonald's name. John McDonald also had to be manager of the premises. Taking him out of the formula, the interpretation was that since Dawn Doyle still owned the house and if she could comply with the remaining conditions, the variance could be utilized. He stated there was more than one interpretation.

Don Larson further stated that John McDonald was also to manage the St. Regis and the variance only ran as long as he was the manager. He felt that would make the variance moot. Robert Dunckel confirmed.

Don Morris apologized that the Board had not received the transcripts due to there being issues with the recording secretary. He stated that the transcripts would be provided by the next meeting. Acting Chair Birch Willey stated that this was now a moot point and with everything staff had to deal with, he felt they should not worry about the transcripts until they saw what would occur next month.

Fred Stresau clarified that Don Morris was referring to the minutes of the January and February meetings. Acting Chair Birch Willey disagreed and stated that Don Morris was referring to the transcripts of the tapes regarding the Needham House as requested by this Board.

Don Morris stated that they had been prepared, but he was not comfortable with the accuracy of the documents, and therefore, did not include them in the Board's material. Acting Chair Birch Willey stated that they take a practical approach to this matter, and the matter needed to be put to bed properly. He suggested that the transcripts regarding the Needham House not be provided until requested by the Board.

Roll call showed: YEAS: Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Scott Strawbridge, Al Massey, and Birch Willey. NAYS: None. Motion carried 7-0.

#### Wachovia Bank

Binni Sweeney stated that about 2 – 2 1/2 years ago a variance had been granted on East Commercial Boulevard for a bank that became Wachovia Bank, which had been a nightclub previously. She further stated that many variances had been requested and the Board agreed that sufficient parking spaces were not being provided. She stated they were now moving due to the fact there were not sufficient parking spaces available. She reiterated that sometimes things were done because the neighbors petitioned for it and the Board was not doing what was right for the City. She remarked that it caused problems for the merchants in the area, and asked the Board to consider these matters for the good of the City.

Robert Dunckel stated that one of the aspects of the case pertained to drive-thru teller aisles, and he suggested they pull the Order to refresh the Board's recollection. He explained that possibly the set of variances had been tied to the operation as a bank. He hoped it was done in that respect.

Gus Carbonell stated that he believed it dealt with stacking cars for the drive-thru lanes and landscape buffers that had not been required of other businesses in the area. He stated the nightclub had been a major nuisance to the neighborhood. Binni Sweeney reiterated that they had received many variances.

Scott Strawbridge asked if the minutes of that meeting could be redistributed to the Board. He asked why the Board had not received minutes of the past meetings.

Don Morris stated that he had received the minutes, but after reviewing them he questioned their accuracy. He further stated that they would be distributed to the Board after they were reviewed.

Status of Chavez Acquisitions (Parking Company of America)

Robert Dunckel stated that the status of the Chavez acquisitions, known as Parking Company of America, was that a hearing was held Friday, February 25, 2005, and Board Members Fred Stresau, Jon Albee, and Binni Sweeney had testified, along with other representatives of the City. He stated the matter was now in the hands of Special Magistrate Sam Goran who indicated that he would render his decision within 14 days. He advised there would be no penalty for going beyond that time frame. He stated further that when he received the Order, it would be distributed to the Board.

**Motion** made by Al Massey and seconded by Fred Stresau to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 9:25 p.m.

Chairperson

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

ATTEST:

\_\_\_\_\_  
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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