

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, SEPTEMBER 14, 2005 – 6:30 P.M.  
CITY HALL  
CITY COMMISSION CHAMBERS – 1<sup>st</sup> Floor  
100 N. ANDREWS AVENUE  
FORT LAUDERDALE, FL**

**BOARD MEMBERS**

	<b><u>Present/Absent</u></b>	<b><u>Cumulative from January 2005</u></b>
Gus Carbonell	P	9-1
Don Larson	P	9-1
Fred Stresau	P	8-2
Scott Strawbridge	P	10-0
Binni Sweeney	P	8-2
E. Birch Willey	P	7-3
Patricia A. Rathburn, Chairman	P	8-2

**ALTERNATES**

Gerald Jordan	P	6-1
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**STAFF**

Robert Dunckel, City Attorney  
Don Morris, Acting Zoning Administrator

Margaret A. Muhl (D'Alessio), Recording Secretary  
Jamie Opperlee, Court Reporting Service

**GUESTS**

Jon Morgenstein	Nectaria Chakas	Stephanie Rodriguez
Jim Adinolfi	John Hardesty	Andrea Jimenez
Kris Goodman	Miguel A. Clanigo	Cedric Douglas
Peter Walker	Troy Hutsler	

**CALL TO ORDER**

Acting Chair Birch Willey proceeded to call the meeting to order at approximately 6:39 p.m. and explained the procedure to be followed for tonight's meeting. The Board was then introduced.

**APPROVAL OF MINUTES**

**Motion** made by Binni Sweeney and seconded by Don Larson to approve the minutes of the August 10, 2005 Board of Adjustment Meeting. Board unanimously approved.

**ALL INDIVIDUALS WISHING TO SPEAK ON THE MATTERS LISTED ON TONIGHT'S AGENDA WERE SWORN IN.**

**1. APPEAL NO. 05-26**

**APPLICANT:** High Point LLC

**LEGAL:** "The Amended Plat of Lauderdale Isles," P.B. 16, P. 33 B, PT of Block 3  
Formerly known as Lots 7 and 8, Blk 3, "The Amended Plat of Lauderdale Isles," P.B. 16, P. 33 B, PT of Block 3 formerly known as Lots 5 and 6 Blk 3

**ZONING:** RMM25 (Residential Mid-Rise Multi-Family/Medium Density District)

**STREET:** 45 Hendricks Isle

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-21.10.B.3 – Landscape Requirements**

Requesting a variance to allow a total of twenty-six percent (26%) of the gross lot sq. footage to be in landscaping where the ULDR requires thirty-five percent (35%) of the gross lot sq. footage shall be in landscaping.

Acting Chair Birch Willey announced that this case had been withdrawn by the applicant.

**7. APPEAL NO. 05-34**

**APPLICANT:** Lawrence A. Maurer

**LEGAL:** "Frank Stranahan Subdivision," P.B. 2, P. 63, Block B, Lots 5 and 6, in the SE ¼  
of the SW ¼ of Section 2, Township 50 South, Range 42 East

**ZONING:** RO (Residential Office District)

**STREET:** 1121 East Broward Boulevard

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-18.21 – Mixed Use Development**

The applicant appeals the Zoning Official's interpretation of the permitted uses in the RO Zoning District (Sec. 47-5.60). The Zoning Official has determined that flexibility units can only be allocated to Commercial-designated parcels without a land use amendment for a mixed use development under Sec. 47-18.21 and "mixed use" is not an enumerated permitted use in RO. The applicant argues that free-standing residential uses are permitted in Sec. 47-18.21 under mixed use and also are permitted in RO. Accordingly, flex units may be allocated in RO under the provisions of Sec. 47-18.21.

**8. APPEAL NO. 05-33**

**APPLICANT:** Lawrence A. Maurer

**LEGAL:** "Frank Stranahan Subdivision," P.B. 2, P. 63, Block B, Lots 5 & 6

**ZONING:** RO (Residential Office District)

**STREET:** 1121 East Broward Boulevard

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-18.21 – Mixed Use Development**

Given the Zoning Official's interpretation of the permitted uses in RO, the Applicant requests a variance from Section 47-28.1F to permit the allocation of flexibility Units to a free-standing residential development without an amendment to the land use plan in accordance with the provisions for the land use plan and not through the provisions of Sec. 47-18.21, Mixed Use Development.

Acting Chair Birch Willey announced that Item Nos. 7 and 8 were being withdrawn from tonight's agenda by staff.

Acting Chair Birch Willey announced that Al Massey would no longer be a member of this Board. He stated that he had been a very good member of this Board, but he was going to take advantage of another opportunity.

Scott Strawbridge also stated that he had served six years on the Parks, Recreation and Beach Advisory Board with Al Massey, and that he was a truly great citizen and would be missed on this Board.

## **2. APPEAL NO. 05-25**

**APPLICANT:** Daniel K. Patterson  
**LEGAL:** "Chula Vista Third Addition," P.B. 26, P. 14, Block 1, Lot 4.  
**ZONING:** RS 5 (One-Family Detached Dwelling District)  
**STREET:** 1480 SW 30<sup>th</sup> Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 39-285, Front Yard.** Requesting a variance to allow a 15.6' front yard setback where the County Code requires a 25' front yard setback.

**APPEALING: Sec. 39-286 – Side Yards.** Requesting a variance to allow a 4' 1/8" side yard setback where the County Code requires a 7.5' side yard setback.

Due to the late arrival of the contractor, this item would be heard later on in tonight's agenda. The next item No. 3 would be heard.

## **3. APPEAL NO. 05-29**

**APPLICANT:** Panache Properties LLC (Princeton Court Townhomes)  
**LEGAL:** "Amended Plat of Hibiscus Gardens," P.B. 16, P. 36, Part of Block C, formerly known as the East 23' of Lot 7, all of Lot 6, Lot 5 less W 23, "Hibiscus Gardens," P.B. 10, P. 1, Block 6  
**ZONING:** RML-25 (Residential Low-Rise Multi-Family/Medium High Density District)  
**STREET:** 1415 SW 24<sup>th</sup> Court  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-18.33.B.3 – Townhouse Development.** Requesting a variance to waive the requirement that 25% of the townhouse group's front façade (facing SW 24 Street), be setback an additional 5' from the rest of the front façade.

**APPEALING: Sec. 47-5.35 – Table of Dimensional Requirements for the RML-25 District.** Requesting a variance to allow a 20' front yard setback (SW 24 Street) where Code requires through lots (interior lots having frontage on two streets), to maintain a 25' front yard setback on both streets.

The following disclosures were made by the Board as follows: Binni Sweeney stated that she had spoken with Commissioner Cindi Hutchinson. Gerry Jordan stated that he also had spoken with Commissioner Cindi Hutchinson. Birch Willey stated that he spoke with Commissioner Cindi Hutchinson.

John Morgenstein, Panache Properties, LLC, stated that they are seeking a variance to waive the requirements listed on the agenda regarding front façade setbacks, and front setbacks for a proposed townhome development on a vacant lot in the RML-25 District in River Oaks. He stated that there was a hardship which was attributable to the land.

Mr. Morgenstein stated that the Planning and Zoning Department's liberal application of the Code determined that his lot was a double-frontage lot. He explained that both the north and south side of his lot was considered frontage. He stated that the front setback requirement was 25' from the edge of the property line, and the front setback requirement was that 25% of the front façade had to be setback an additional 5' from the edge of the property line. He stated that since his lot was considered double-frontage, this meant that both sides of his property abutted a so-called street, and therefore, he had to abide by the front setback requirement. He asked if such requirements could be waived so the lot could be a typical lot in the RML-25 District with a 20' rear setback with no front façade requirement.

Mr. Morgenstein proceeded to show an aerial map of the site. He explained that the site was to the east of I-95, north of SR 84, north of SW 24<sup>th</sup> Court, and near the intersection of SW 15<sup>th</sup> Avenue. He continued stating that he felt the biggest hardship attributable to this land was the fact that the north side of the property fronted an unimproved right-of-way. He stated that the right-of-way was SW 24<sup>th</sup> Street, and had been unimproved for the last 20 years, and the City did not have any plans to improve the right-of-way. He stated that there was no public access to the site. He further stated that he had included photographs of the unimproved right-of-way in the application. He added that a gravity sewer line had recently been installed by the City which helped to serve the LaPreserve development to the east. He stated that a lift station had recently been installed on the west side of the right-of-way along SW 15<sup>th</sup> Avenue. He further stated that a fence was also to be constructed in that area.

Mr. Morgenstein stated that a hardship exists because the Planning and Zoning Department's application of the Code determined that the unimproved right-of-way was actually a street. He stated that no other properties in the area had the same problem. He advised that his lot was the only vacant one that abutted the right-of-way. He stated that nine other properties exist and did not conform to the double-frontage policy. He stated that his substantial right to the property was being denied.

Mr. Morgenstein further stated that he believed the reason for the front façade requirement was for aesthetic purposes, and there was no public access to the unimproved right-of-way, nor was there going to be. He felt the reasoning behind the Code was obsolete.

Mr. Morgenstein referred to Section 47-24.5.d.3 of the Code which intent was to minimize double-frontage lots wherever possible. He proceeded to read as follows: "Double-frontage lots for residential use shall be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific handicaps of topography and orientation." He stated that by waiving the requirements, it would help support the intent of the Code.

Scott Strawbridge stated that the applicant was requesting 20' at the rear yard which abutted the right-of-way, and he asked if normally the rear yards were 15'. Don Morris stated that he believed the requirement was 20'. Scott Strawbridge stated that someone in his office who owned a double lot which was zoned for cluster homes fronting two streets, and the architect brought in plans and they were basically flipping the front yard and rear yard, and was presuming a 15' rear yard setback.

He stated that he spoke with Doug Kurtock, Plans Examiner, who stated that they were permitted to have one front yard and one rear yard with double street frontage. Don Morris stated that was incorrect and for the architect to call him.

Gerry Jordan asked what was the opinions of the Homeowners Associations regarding this project.

Mr. Morgenstein stated that he wanted to vacate the right-of-way and had received unanimous support from the River Oaks Homeowners Association, and he also had signed affidavits from the abutting property owners. He stated that he had not spoken to them regarding the setbacks, but the same intentions were there and he believed they would be in support.

Gerry Jordan asked if he asked the Homeowners Association their opinion about the building itself. Mr. Morgenstein stated that there would be a 25% front façade setback, and everyone was concerned about the northern portion of the lot, but no negative comments had been received. He stated that he made a presentation to the Association and no one appeared to have any objections.

Acting Chair Birch Willey clarified that the applicant was not appealing Section 47-18.33.B.3. Mr. Morgenstein advised that he was appealing both sections.

Don Morris clarified that the applicant was appealing Section 47-18.33.B.3 regarding the requirement that 25% of the townhouse group's front façade (facing SW 24 Street), be setback an additional 5' from the rest of the front façade.

Mr. Morgenstein stated that was in regard to the north side of his property which he wanted to be the rear of the property since it only faced unimproved right-of-way.

Don Morris further clarified that both of the requested variances were for the north side of the property.

Mr. Morgenstein advised that this was a complex issue.

Binni Sweeney asked if the Homeowners Association had been notified. Don Morris stated that he would have to check. Robert Dunckel stated that such notification was not required by the Code, and that it was done only as a matter of courtesy. Binni Sweeney stated that she had spoken with Commissioner Hutchinson today, and had been informed that she had been contacted by the President of the Homeowners Association who stated they were opposed to the project.

Mr. Morgenstein reiterated that he had paperwork in his possession proving otherwise. He added that possibly they did not understand the complexity of the issue. He stated that the project had been approved by the Association unanimously (30-0) regarding the vacation of the right-of-way, which was the same thing. He stated that he did not have the documents with him tonight.

Gus Carbonell stated that the site was unique and that the right-of-way on the north side was only 25'. He asked where the 25' came from; the block or the adjacent church property. Robert Dunckel stated that it was included in this particular plat. He explained that the other streets within the plat of the subdivision were 50' right-of-ways, and the one at the extreme northern end of the plat was a 25' dedication. Gus Carbonell remarked that the lots were shallow in depth as compared to a typical City lot. He stated that the church property would probably be slated for redevelopment in the near future. He stated that he had no objection to the setback, and he felt it was a unique situation. He stated that with the shallow lot, the right-of-way would never be a true right-of-way. He added that he

did have some reservations regarding the 25% because whether it faced a street or not, there would eventually be neighbors on the other side, and some improvement could be made to the wall to make it more interesting.

Mr. Morgenstein stated that he would not be opposed to adding decorative features to the back. He stated that he was not aware of any plans the church might have at this time.

Scott Strawbridge stated that he was concerned about the comments from the Homeowners Association, and asked if this could possibly be deferred until the neighborhood was properly notified so feedback could be received. He stated that the face value had validity, and he felt the neighborhood would benefit by more texture being placed on both sides of the building. He added that the Homeowners Association was very active in that neighborhood, and therefore, he was reluctant to vote on this matter until their comments were received.

Mr. Morgenstein further stated that he did not object to delaying this matter for one month. He stated that possibly any negative votes could be swayed to positive ones.

**Motion** made by Scott Strawbridge and seconded by Binni Sweeney to table this matter until October 11, 2005 at 6:30 p.m. Roll call showed: YEAS: Binni Sweeney, Gus Carbonell, Gerry Jordan and Scott Strawbridge. NAYS: Fred Stresau, Don Larson, and Birch Willey. Motion carried 4-3.

Acting Chair Birch Willey asked if the applicant wanted to wait and appear before this Board in November. Mr. Morgenstein stated that he did not think there would be a problem.

Fred Stresau asked if staff could provide to the Board next month the definition in the Code where it defines a double-frontage lot.

#### **4. APPEAL NO. 05-30**

**APPLICANT:** California State Teachers Retirement System

**LEGAL:** "Coral Ridge Country Club Addition No. 1," P.B. 40, P. 18,  
Block 4, Lot 1

**ZONING:** B-1 (Boulevard Business District)

**STREET:** 2400 E. Commercial Blvd.

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** **Sec. 47-22.4.A.2 – Sign Requirements, Multi-Tenant Office Bldg. W/Ground Level Stores** – Requesting a variance to permit a multiple tenant office building to have a monument sign which displays the building identification and the names of the four tenants, where the Code only permits the building identification ground sign and does not permit the names of the tenants on such sign.

Nectaria Chakas, attorney, stated the California State Teachers Retirement System were the owners of this office building. She proceeded to show a photograph of the building which was located on the corner of Federal Highway and Commercial Boulevard. She explained that at the present time the building had over 60 tenants, and consisted of 261,000 sq. ft. of office space. She stated that there was a sign on the property that they wanted to relocate. She stated that Katrina blew away the existing sign. She then showed the Board an aerial photograph of the site.

Ms. Chakas referred the Board to the materials which they had received in their package regarding the proposed sign. She explained they were proposing a "v" shaped sign that would be visible from both Commercial Boulevard and Federal Highway. She stated that presently the sign had been on an angle and it was only visible as one drove southbound on Federal Highway or westbound on Commercial Boulevard. She stated the signage was not adequate for the site. She stated that they were requesting to place four tenants on the sign and were the four largest ones.

Ms. Chakas continued stating that the Code had some peculiarities. She explained that shopping centers which had multiple tenants were permitted to have monument signs, but had about 10 or more tenants located on those signs. She stated that office buildings were treated slightly different. She stated that at some point it became counter-productive to have every single tenant listed on the sign. She explained they were requesting four tenants to be placed on a monument sign so patrons would easily see the location of the tenant they were desiring to go to. She stated this was a safety issue, and therefore, they were requesting the variance from the current Code requirement.

Robert Dunckel stated that the applicant was requesting a variance to permit a multiple tenant office building to have a monument sign which displays the building identification. He continued stating that he could not find monument sign as a category in the sign code.

Acting Chair Birch Willey stated that over the years they had referred to "monument signs." Robert Dunckel stated that the terms used in the application should match the terms used in the Code. He asked if this was to be a ground sign or a building identification sign.

Ms. Chakas stated that it was a building identification ground sign. Robert Dunckel stated that those were two different types of signs that had two different criteria. He asked what were the dimensional requirements for the sign.

Acting Chair Birch Willey stated that the dimensions of the sign were included in the information that had been distributed to the Board, but he did not have the requirements listed in the Code.

Robert Dunckel stated that depending upon the definition, the applicant might need a variance with respect to the size also.

Ms. Chakas advised that the sign had been reviewed by Bob Rice who was the resident sign expert for the City who determined that it met the requirements of the Code, except for the fact that four tenants were listed on the sign. She advised further that the sign had been submitted for a permit and comments were received back from zoning. One of the comments was in regard to the changeable copy. She stated that no comments were made regarding the size or dimensions of the sign.

Binni Sweeney stated that if there was no such thing as a building identification ground sign, then would this application be moot since there was no definition for what was being requested.

Don Morris stated that there was a definition in the Code of a ground sign. Robert Dunckel added that there was also a definition in the Code for a building identification sign, but they were two different things. He added there was no such thing as a building identification ground sign. He supposed that a ground sign could be used for building identification, in which case, there could not be any tenant IDs on it.

Acting Chair Birch Willey stated that over the years the problem arose where a building wanted to place their tenants' names on their sign, and there had always been an identification sign which could be called a monument sign because the building could be identified with different types of signage.

Chair Patricia Rathburn entered the meeting at approximately 7:22 p.m.

Fred Stresau stated that everything would be clarified in the new Sign Code.

Don Morris proceeded to read from the Code, Page 400.1, #2. Robert Dunckel stated that they had different dimensional requirements. Don Morris confirmed. Robert Dunckel stated further that for dimensional purposes this was a ground sign, but for message purposes, this was a building identification sign. Don Morris clarified that the identification was to be in regard to the building, and not the tenants.

Acting Chair Birch Willey clarified the applicant was requesting a variance to let the sign show the building and the tenants. Don Morris confirmed. Acting Chair Birch Willey stated that the question was how big could the sign be. Don Morris stated that he did not think they were requesting to vary the requirement, so whatever they were proposing the Board was to approve the request in accordance with the ULDR requirements regarding a ground sign. Acting Chair Birch Willey stated that dimensions had been included in the applicant's information, and therefore, he wanted to make sure the size was within Code before it was approved by the Board.

Robert Dunckel stated that if the Board passed on the motion, it would have to do with the message on the sign as opposed to the dimensions of the size. He stated that if the dimensions submitted exceeded the dimension requirements listed in the Code, they would have to come back or redesign the dimensions and size.

Acting Chair Birch Willey cautioned the Board how the motion was to be worded so that such sign had to meet all Code requirements. Robert Dunckel stated that if the applicant wanted a larger sign than what was permitted by Code, then they would have to come back before this Board for approval.

Don Larson stated that the sign appeared to be close to the sidewalk, and he said that it could cut-off the view of individuals making a turn. He stated that possibly the sign would have to be moved back further.

Ms. Chakas stated that she was going to check with Jim Adinolfi who was the designer of the sign.

Jim Adinolfi, Atlas Sign Industries, stated that in looking at the coloring rendering the sign had been superimposed. He pointed out that made it slightly out of scale, and made it appear larger than what it actually was. He explained they would maintain the required setbacks, and they would not obstruct any views.

Gus Carbonell asked if an office building had retail on the ground floor would they be permitted to have separate identification signs.

Don Morris proceeded to read the required language from the Code regarding sign allowance.



Acting Chair Birch Willey 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 Binni Sweeney and seconded by Don Larson to close the public hearing. Board unanimously approved.

Binni Sweeney stated that this building was across the street from their building which was only 3 stories in height, and they were not permitted to have a sign in front of the building. She further stated that none of the buildings Downtown were permitted to have signs listing the tenants. She stated that if the Board approved this, she feared they would be setting a precedent, and then they would be inundated with every large building in the Downtown area requesting the same. She added that she was vehemently opposed to this request.

Robert Dunckel asked staff if a "v" shaped sign was still considered as one sign. Don Morris confirmed.

**Motion** made by Binni Sweeney and seconded by Fred Stresau to approve the request as submitted.

Gus Carbonell asked if the Code contained any information regarding the square footage or maximum height for a sign. Fred Stresau stated that he did not think that had anything to do with it. He advised that would be up to Bob Rice.

Acting Chair Birch Willey stated that in the letter, Bob Rice had not made any mention to size, but the Code referred to the size of a monument sign.

Gus Carbonell stated that it was 6' 6" at the highest point and it goes down to about 5'.

Binni Sweeney stated that she wanted to amend her motion as follows:

**Motion** made by Binni Sweeney and seconded by Fred Stresau to approve the request as submitted subject to the sign conforming to the size in the existing sign ordinance, along with the location.

Robert Dunckel stated that the Order typically followed what the wording was in the agenda, and it was established that it should have said building identification ground sign. He asked if the applicant would have any objection regarding the Order if this would be identified as a building identification sign instead of a monument sign. Ms. Chakas stated they would have no objection. She believed that was now the notices had read. Robert Dunckel stated that in this way the Zoning Plans Examiner could key in on what the dimension requirements would be for the ground sign.

Acting Chair Birch Willey stated that would clarify the matter as to what type of sign could be installed, along with the required size. He clarified that this was a variance requesting a change in a building identification ground sign. He stated that all parties agreed on the definition. Ms. Chakas confirmed. She added that they were requesting the sign to contain the name of the building, along with four tenants and the address.

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

**2. APPEAL NO. 05-25** (Cont'd from Page 3)

**APPLICANT:** Daniel K. Patterson

**LEGAL:** "Chula Vista Third Addition," P.B. 26, P. 14, Block 1, Lot 4.

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

**STREET:** 1480 SW 30<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 39-285, Front Yard.** Requesting a variance to allow a 15.6' front yard setback where the County Code requires a 25' front yard setback.

**APPEALING: Sec. 39-286 – Side Yards.** Requesting a variance to allow a 4' 1/8" side yard setback where the County Code requires a 7.5' side yard setback.

John Hardesty, contractor, stated that they wanted to improve the property. He explained the general area of Riverland was in a state of being upgraded. He stated that due to the pool, the applicant was unable to construct reasonably sized rooms, along with the garage, without exceeding the existing setbacks. He further stated that regarding the side setbacks, the applicant was willing to change the construction to bring it within the 5' side setback requirement.

Binni Sweeney asked what was the City Code for this area. Don Morris stated that 25' was required in the front and the side was to be determined. Binni Sweeney clarified that regardless whether it was the County or City Code, there would still be a required setback.

Chair Patricia Rathburn stated that the side yard setbacks would not be less than 5'. She added that the 4' 1/8" did not meet any requirements.

Robert Dunckel stated that the Board needed to consider that the County Code was how the rest of the neighborhood had been developed, and neighborhood compatibility has always been a consideration in granting a variance.

Chair Patricia Rathburn proceeded to open the public hearing. There being no individuals wishing 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 Binni Sweeney to close the public hearing. Board unanimously approved.

Don Larson asked if the existing slab was at 25'. Mr. Hardesty confirmed.

Scott Strawbridge stated that the hardship could not be an economic one, nor could it be a matter of convenience for the owner. He asked for some further clarification of the special circumstances surrounding this request. He asked if the lot was a common rectangular one. Mr. Hardesty stated that the lot was a common rectangular lot. He further stated that this was an older neighborhood that was currently under rehabilitation, along with some new construction. Scott Strawbridge asked if the other homes on the block were set back 25' from the property line or were they set back 15' 6". Mr. Hardesty stated that most of the homes that had been improved were in the 20' – 25' range. Scott Strawbridge asked if the homes met the requirements of the County Code which was the same as the City's Code. Mr. Hardesty explained that some of the homes met the Code requirements, and some did not. He explained that the house on the corner of 31<sup>st</sup> and Riverland, which built a new addition, was under the 20' requirement.

Scott Strawbridge asked what were the peculiarities of the property which constituted the request for an exception.

Mr. Hardesty stated that the property was not conducive to any type of addition to the existing structure. He added that it would be prohibitive structure wise to build up at this point. He explained it was an older residence.

Scott Strawbridge stated that the Board could not consider that, and they could only consider the land with its peculiarities. The structure was not something that could be considered.

Chair Patricia Rathburn stated that it was up to the applicant to know the criteria.

Fred Stresau stated that about 8-10 years ago a workshop had been held with the City Commission regarding criteria to be considered for a variance. He added that he had received a letter from a Commissioner telling him not to make zoning law when voting on a variance. He stated that the applicant needed to tell the Board what they wanted to be interpreted. He stated that the Mayor and some of the other Commissioners had stated that they wanted the Board to consider each application on its own merit, and how it would affect the neighborhood, along with the adjacent properties. If it did not injure the neighborhood, then each one should be considered. It was not a simple "yes" or "no" as to whether it met the criteria or not. He further stated that was how the City Commission wanted the Board to consider each application.

Scott Strawbridge explained that he was attempting to extract such information from the applicant. He appreciated the fact that the Chair wanted to run a speedy meeting, but he should not be cut off because it was unfair.

Chair Patricia Rathburn apologized.

Fred Stresau stated that at the last several meetings, he remarked that he had been upset over the fact that staff was not able to provide a zoning category to this neighborhood, and had put the entire area into "limbo." He remarked that it was not staff's fault, and possibly was the fault of the City Commission and the City Manager for not having sufficient staff to respond to the neighborhood in a timely manner. He stated that he had a copy of the County Code which stated as follows: "The side yard has to be 7.5 feet." He stated that it was strange that the existing one-story CBS residence had a dimension on the drawing, and he did not believe it to be a survey, of 5' 2 3/8" which meant that the County at some time had approved something less than the 7.5 feet. He continued stating that in fairness to the applicant, it would make sense to say that if the 5' 2 3/8" were satisfactory to the County at one point in time, then it would be reasonable to say that it more than met the minimum setback for most single-family homes in the City of Fort Lauderdale. Therefore, that was what this Board should consider.

Chair Patricia Rathburn disagreed and stated that she had represented the Broward County Board of Adjustment for about 20 years until it was recently disbanded, and during that time she had seen many of these things. She felt the City needed to address the zoning code for this particular area, but the ones she had been sympathetic to had been those that met the City Code but not the County Code, or there was already an encroachment and they wanted to even it out. She stated that even though Scott Strawbridge was attempting to extract what the applicant's hardship was and why the property was unique, the applicant had stated that the property was not unique, and that they just wanted to build a larger house on the lot. She stated that she appreciated that, but it did not meet

the criteria of this Board. If there was a 25' front yard setback in the City, to allow this zoning district to languish in limbo with the County's zoning code did not change her mind that the setback should be 25', unless the applicant could show some reason that this property was unique. She added that she would not want to be 4' from her neighbor.

Don Larson stated that the house to the north had been rebuilt, and he asked if it met the local codes. Mr. Hardesty stated that he did not know that information.

Daniel Patterson, owner, stated that the house on the driveway side was much closer to the other neighbor and was within 5'. He added that there was a house across the street from that one that had been rebuilt and was less than 5'. He further stated that the frontage area on the plans was for the garage, and it was going to be a driveway whether it was covered or not.

**Motion** made by Binni Sweeney and seconded by Scott Strawbridge to approve the request as submitted regarding Section 39-285. Roll Call showed: YEAS: None. NAYS: Binni Sweeney, Gus Carbonell, Birch Willey, Scott Strawbridge, Fred Stresau, Don Larson, and Patricia Rathburn. Motion failed 0-7.

**Motion** made by Binni Sweeney and seconded by Birch Willey to approve the request as submitted regarding Section 39-286. Roll call showed: YEAS: Birch Willey, Scott Strawbridge, and Gus Carbonell. NAYS: Fred Stresau, Don Larson, Binni Sweeney and Patricia Rathburn. Motion failed 3-4.

Fred Stresau stated that the applicant was requesting an addition on the other side of the house from what existed which was 5' 2.5". He stated further that they were voting on the 4' figure. He stated that the motion was not to meet 5' which was what the current Code stated for the City. He explained that he was going to exceed that and have it match the one on the other side.

Chair Patricia Rathburn stated that she misunderstood. She continued stating that if the applicant was expanding the house on the side with the setback of 5' 2.5", then she would have voted in favor of it.

Gus Carbonell asked if the Board could bring the matter back for another vote. He stated that he thought they were voting on the 5'.

Fred Stresau explained that they were voting on the motion for the variance being requested.

**Motion** made by Binni Sweeney and seconded by Birch Willey to reconsider. Board unanimously approved.

**Motion** made by Binni Sweeney and seconded by Don Larson to grant the variance regarding Section 39-285 to allow a 5' 2 3/8" side yard setback on the north side to match the other side setback.

Robert Dunckel stated that he wanted this Board to understand some of the basic facts. He continued stating that this was zoned RS-5. He explained there were two single-family dwelling zoning districts in the City. Those were RS-4.4 which had a 10' side yard setback, and RS-8 which had a 5' setback. He explained that this RS-5 was 5 dwelling units per acre and was closer to the RS-4.4 than the RS-8.

Gus Carbonell stated that the subdivision which had a 4.4, the lots normally had 100' in frontage. He stated that the County Code used to have a break point.

Scott Strawbridge suggested they approve a common 5' setback which was customary for a 60' wide lot instead of counting inches.

The following amendment was accepted by the maker and second of the motion:

**Motion** made by Binni Sweeney and seconded by Don Larson to grant the variance regarding Section 39-285 to allow a 5' side yard setback on the north side.

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

Binni Sweeney asked if there was anything anyone could do to resolve this problem in that particular neighborhood.

Fred Stresau stated that this matter would be mentioned in the minutes, and the minutes would be forwarded to the City Commission and the City Manager. He stated that was the best they could do.

Don Morris stated that he could not do much regarding this and everyone was aware of the issue and that it added to the workload for this Board. He stated that due to lack of resources in their department, this could not be addressed.

Fred Stresau stated that this lot had 8,000 sq. ft, and one of the two zoning areas addressed 6,000 sq. ft. lots, and the other addressed 10,000 sq. ft. lots. Therefore, this lot was average for those in-between. In looking at the aerial photograph, there was not much room between the houses. He stated that the Board needed to impress upon the City Commission that these types of issues would continue coming before this Board, and they were making a zoning change. He stated if there was a driving need to support community compatibility, then the Commissioner of the District needed to figure out how to get the resources and staff level to do some type of zoning setback for this area. Otherwise, this Board would be taking it on their own to establish that, and he did not know if that was wrong. He further stated that by saying they could not decide because they did not have a zoning code for the area was stating a moratorium, and he did not like that word at all.

**5. APPEAL NO. 05-31**

**APPLICANT:** Properties Investment & Engineering, Inc.

**LEGAL:** "Subdivision of Block 6 in the Town of Fort Lauderdale," P.B. 1, P. 57, Block D, Lots 11 & 12

**ZONING:** B-2 (General Business District)

**STREET:** 724 NW 3<sup>rd</sup> Street

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-6.20 District B-2 – Table of Dimensional Requirements.** – Requesting a variance to allow existing building to maintain a 1' – 11" side yard setback where the Codes requires a 15' setback when contiguous to residential property.

**APPEALING: Sec. 47-25.3.A.3.d.iv.b. – Wall Requirements.** – Requesting a variance to allow the existing building wall to satisfy the 5' – 0" wall requirement where Code requires a minimum of 5' wall to be located within, and along the length of the property line which abuts the residential

property.

Andrea Jimenez, Properties Investment & Engineering, Inc., stated that they were requesting approval for a change at their property. She stated that the property was located 3 blocks north of Broward Boulevard, and west of Avenue of the Arts (7<sup>th</sup> Avenue). She stated that the area was zoned for SB-2 which was Business. She stated they were applying for the minimum variances that would permit the use of the property as a professional business office. She stated they would maintain the residential look of the building. She stated they would provide employment opportunities to the community, along with improving the aesthetic look of the building. She stated that the architect would explain the variances being requested.

The architect stated that this was a single-family residence zoned B-2, and they were proposing a use change from residential to business. She explained that the business would be a small real estate developer, and no changes or additions would be made to the exterior of the building. Therefore, the residential character of the building would be maintained. She further stated they would be doing interior renovations for the change of use. She explained they were seeking a variance for the setback of the existing building which was 1' 11" on the west side and adjacent to residential property. She stated that there was a B-2 zone on the east side and rear of the property.

The architect stated that in regard to the other variance, they were requesting to have the 5' required wall against the building to be eliminated between the property and the residential dwellings. She explained it was a hardship to erect the wall because of the small area to work in. She added that there was electrical service in that area also.

Chair Patricia Rathburn proceeded to open the public hearing.

Cedric Douglas stated that his mother lived in the residential area near this building, and she was concerned about the 15' the applicant wanted to cut down. He stated that she was concerned they were going to put parking in the area and her bedroom would be close to that area. He proceeded to show the area on the map.

Don Larson asked if the wall would be placed in the front of the 1' setback and along the back to Second Street. The architect confirmed.

Mr. Douglas stated that he had not yet heard what was creating the special hardship for the applicant.

Gus Carbonell stated that if they were to take a line from the existing rear portion of the building to the rear yard, it appears they would meet the 12' buffer that was required to the residential dwellings. He stated that as long as a wall was built, the homes would be protected.

Scott Strawbridge stated that the variances being sought have nothing to do with the proximity of the parking, and dealt with the unique circumstances of how the house was built on the lot. He stated that it appeared the building would be a good 60' – 70' from the residential dwellings. He asked when the house was built. The architect stated that the house was built in the 1930's. Scott Strawbridge stated that it was a perfect example of a little "cracker shot gun house," and was not architecturally unique, but the City was losing such buildings more frequently, and he suggested that historic designation be obtained.

Binni Sweeney stated that if someone wanted to build on the next door lot, this building would be right next to them. She did not think it was fair.

Chair Patricia Rathburn reminded everyone that this was a business zoned district, and therefore, no residential uses would be coming in. Fred Stresau added that in business zoning there was a zero setback. Gus Carbonell stated there was a zero side setback in such areas. Fred Stresau stated that according to the Fire Code, the wall would have to be a masonry one. Gus Carbonell explained that the side where they are seeking the waiver was a residentially zoned district. Fred Stresau added that there would be a 15' side setback for the lot next door.

Binni Sweeney reiterated that she was concerned about the next door lot being residential. Don Larson asked if the individuals would be asked to tear down the house and move it. Binni Sweeney suggested that they could move it over. Fred Stresau stated that they would then have difficulty with their parking area. Binni Sweeney stated that was not her concern and they had to consider the other individuals in the area.

Gus Carbonell stated that if he was to choose between a business building being next door or a parking lot, he would choose the office building because the noise in the building would be closed off due to air conditioning, but cars and traffic would be a problem.

Mr. Douglas stated that unfortunately his mother was concerned about this matter, and lived in this community. He stated the question was what was the right thing to do for the neighborhood.

Gus Carbonell explained that if the house was put on the opposite side of the lot, there could be a zero setback in the zoned business section, but having the driveway next to the residential area he felt would be more intrusive than having the office building. Mr. Douglas stated that he understood what was being stated, but that issue should have been researched before the building was purchased.

Fred Stresau stated that because the building was too close to the property line, the Board could prevent the applicant from developing the property. He continued stating that if the building was moved about 4', the applicant could then build the project. He stated that the driveway and parking were legal at this time. He reiterated that everything but the building fell within Code requirements.

The architect stated that the windows on the west side of the building would be removed and blocked up. Binni Sweeney stated that if a residence was built on the other side, they would be facing a blank wall. The architect stated that would be better and prevent everyone seeing any activity.

Ms. Jimenez stated that due to fire requirements, the wall was required. The architect explained that a wall within 3' of the property line was required.

Scott Strawbridge asked if there could be some possible trade-offs made in order to help the adjacent residences, such as a wood fence where the masonry wall stopped that could be removed for service work. He also stated that there appeared to be sufficient vegetation between the lots that would help to buffer sound and lights, and possibly additional landscaping could be provided there to create more of a buffer.

Ms. Jimenez reiterated that the building would offer benefits to the community such as employment.

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 Don Larson and seconded by Binni Sweeney to close the public hearing. Board unanimously approved.

Gus Carbonell asked if the City was going to create a new zoning district in this area. Don Morris stated that the CRA was looking at the property, but there were many residential properties in the northwest RAC.

**Motion** made by Binni Sweeney and seconded by Fred Stresau to approve the variance as requested regarding Sec. 47-6.20 District B-2. Roll call showed: YEAS: Gus Carbonell, Scott Strawbridge, Don Larson and Patricia Rathburn. NAYS: Birch Willey, Fred Stresau, and Binni Sweeney. Motion denied 4-3.

**Motion** made by Binni Sweeney and seconded by Fred Stresau to approve the variance as requested regarding Sec. 47-25.3.A.3.d.iv.b. Roll call showed: YEAS: Scott Strawbridge, Don Larson, Gus Carbonell. NAYS: Birch Willey, Fred Stresau, Binni Sweeney and Patricia Rathburn. Motion denied 3-4.

#### **6. APPEAL NO. 05-32**

**APPLICANT:** Coral Ridge/Canopy (Fabric)

**LEGAL:** "Coral Ridge County Club Subdivision," Block "L", P.B. 36, P. 30, Lot 8.

**ZONING:** RS 4.4 (Residential Single-Family/Low Density District)

**STREET:** 2533 NE 35 Drive

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-5.30 – Table of Dimensional Requirements for the RS-4.4 District. – Requesting a variance to allow a carport to have a 5' side yard setback where Code requires a minimum setback of 10'.

Peter Walker, Walker Awning, stated that his client wanted to build a shade canopy in his existing driveway next to a row of 4' deep ficus hedges for which a permit had been obtained. He explained that the relationship to the existing building was that they were staying within a couple feet into the property, and normally there was a 5' side yard setback. The permit was approved and the canopy built. When calling for a footing inspection, the Field Inspector stated that this was a 10' setback. Discussion ensued with zoning about this situation. He explained that he spoke to the engineer about moving the column in, but then an about face was done regarding the 7' move, and they requested the 10'. He stated the front of the house faces Target's parking lot, and there is a private driveway going towards the house. The only neighbor affected would be to the west, and there was a 4' ficus hedge in that area.

Chair Patricia Rathburn proceeded to open the public hearing.

Troy Hutsler, realtor, stated that the applicant had spent a fortune improving the property. He stated the canopy would be further away than the house. He stated the canopy was custom made to fit the location which had previously been approved.

Binni Sweeney stated that the Homeowners Association in Coral Ridge had consistently opposed this situation in the past, and they wanted to keep the setbacks at 10' and wanted to maintain the



quality of the neighborhood. She stated further that the carport could be moved to the other side of the property.

Mr. Hutsler explained that could not be done because on the side of the driveway, there was an elevated step-up area. He reiterated that the canopy was custom made and referred the Board to the aerial photograph of the site. He stated that the City made a mistake.

Don Morris stated that a Plans Examiner had reviewed it and in looking at the configuration of the carport in relation to the garage, the carport extends farther into the garage than what the drawing shows. He explained that the Plans Examiner assumed the setbacks were maintained, but the Inspector found that not to be the case.

Mr. Walker stated that the survey determines the setbacks, and the survey was done to scale. He explained that the sketch was only a hand drawn one. He stated that normally a survey has to be submitted for the permit and drawings done to scale. He reiterated that he did not know how it could be misinterpreted. He stated there was an existing tile border that they had stayed inside of which was clearly shown on the survey. He stated that this was a "fringe" house which was up against a parking lot. He stated the houses to the east did not have a 10' setback, and the house to the west had a 7.5' setback. He further stated that the house was definitely non-conforming. He stated that most of the City had a 5' side yard setback and the field inspector was aware of that, even though he was not aware of it. He stated that he measured the ficus hedge, and only one person was impacted. He explained that the applicant was already parking at the site, and no new area was being created.

Scott Strawbridge clarified that the copy of the survey provided to the Board had been submitted along with the sketch. Mr. Walker confirmed. Scott Strawbridge further stated that when there has been an error in issuing a permit, the Board needs to be provided with the actual plans that had been approved.

Chair Patricia Rathburn asked staff if the survey had been submitted with the plans. Don Morris stated that he could only testify to what he had shown the Board.

Scott Strawbridge reiterated that he needed to understand that the Zoning Plans Examiner had reviewed a site plan showing a 5' side yard setback in an area zoned for a 10' side yard, and granted the approval.

Mr. Walker stated that they followed the tile border shown on the survey, and they had placed an "X" on the survey where the canopy was to be built. He explained that he had not put a dimension on because it was closer into the property than the house.

Scott Strawbridge stated that it was assumed that the house met Code requirements. Mr. Walker confirmed. Scott Strawbridge stated that was something that should never be done.

Mr. Walker stated that he would be happy to get 6' away and he had already had the engineer look to move the column about one foot.

Scott Strawbridge stated that it was not the 5' or 6', but whether the City made an error. Mr. Walker stated that he had made an error. Scott Strawbridge stated that the Plans Examiner should have asked for a dimension. It appeared there were errors on everyone's part.

Fred Stresau stated that he could see how the Plans Examiner made the mistake, and it should have had dimensions. He continued stating that the survey was accurate, and the building was closer to the property line than what they were attempting to do. He stated that it wasn't right on anyone's part. He further stated that he did not see the adjacent property owner present to object, and he believed the matter should move on.

There being no other individuals 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 Binni Sweeney to close the public hearing. Board unanimously approved.

**Motion** made by Fred Stresau and seconded by Binni Sweeney to approve the request as submitted. Roll call showed: YEAS: Scott Strawbridge, Fred Stresau, Don Larson, Binni Sweeney, Gus Carbonell, Birch Willey and Patricia Rathburn. NAYS: None. Motion carried 7-0.

### **"For the Good of the City"**

#### **Notices**

Binni Sweeney stated that it was her understanding that even if it was not required by Code that the Homeowner Associations were to be notified on these matters.

Don Morris stated that they may have been notified, but the file wasn't specific on that matter. He stated that he would check on the issue and report back to the Board.

Binni Sweeney stated that previously the Board had been notified as to how many notices had been sent out and who had sent them back.

#### **Expression of Sympathy**

Fred Stresau announced that Greg Brewton's wife had passed away right before the hurricane. He felt this had affected Greg, and he felt the Board needed to recognize him because he was a great team player.

Scott Strawbridge stated that he wanted to echo the same sentiments regarding Greg Brewton.

**Motion** made by Scott Strawbridge and seconded by Binni Sweeney for the Board to send their condolences and best wishes for the future to Greg Brewton and his family.

Chair Patricia Rathburn stated that Greg Brewton has 3 sons to be proud of and the service had been beautiful.

Birch Willey stated that he wanted to make sure the Board did whatever was appropriate. He stated that they helped to get the son here from Atlanta. He asked how they could acknowledge this. He felt the Board needed to go further on this, but he was not sure how to proceed.

Binni Sweeney stated that she asked Don Morris for Greg Brewton's home address, and she added that she and her husband was going to send a circle of trees to Israel in her honor. She remarked

that this was a lovely thing to do regardless of anyone's religion because it was a living memorial. She stated that she would be happy to do this on behalf of the Board.

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Notices

Don Morris referred back to the matter of notices. He advised that 12 items had been mailed out, and he believed some e-mails had been received.

Binni Sweeney asked for this information to be provided in the future.

Driving School

Don Morris stated that the matter of the truck driving school would be discussed at the next meeting.

Fred Stresau stated that he passed the intersection every morning, and the road was used heavily by trucks. He stated that if the Board is going to vote on this, they needed to make an effort to look at the subject intersection. He explained that this was in regard to an application for a truck driving school that would be east of SW 7<sup>th</sup> Avenue about 3 blocks south of SR 84. He stated there had been great discussion regarding the residential character of the neighborhood, and what effect this would have on them. He added that the road was the principal connector between everything on the north side of the Airport, and SR 84 which was the direct connection to I-95.

Term Expiration

Patricia Rathburn stated that this was her last meeting, and apparently she was term limited off. She stated it was a pleasure to work with this Board and would miss everyone.

Don Morris stated that he would check on Ms. Rathburn's term limit.

There being no further business to come before this Board, the meeting was adjourned at approximately 8:53 p.m.

Chair

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Patricia Rathburn

ATTEST:

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Jamie Opperlee for Margaret A. Muhl (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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