

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, JANUARY 11, 2006 – 6:30 P.M.
CITY HALL
CITY COMMISSION CHAMBERS – 1st Floor
100 N. ANDREWS AVENUE
FORT LAUDERDALE, FL**

BOARD MEMBERS

	<u>Present</u>	<u>Absent</u>	<u>Cumulative from January 2005</u>
Gus Carbonell	P		13-1
Don Larson	P		13-1
Fred Stresau	P		12-2
Scott Strawbridge	P		14-0
Binni Sweeney, Chair	A		11-3
Gerald Jordan	P		10-1
Birch Willey	P		1

ALTERNATES

David Goldman	A
Don Zimmer	A

STAFF

Robert Dunckel, City Attorney
Don Morris, Planning and Zoning
Greg Brewton, Zoning Administrator

Margaret A. Muhl, Recording Secretary
Jamie Opperlee, Court Reporting Service

GUESTS

Michael Madfis	Diana Centorino
Rich Robbie	Robert Lochrie

CALL TO ORDER

Vice Chair Don Larson called the meeting to order at approximately 6:35 p.m. Roll call was taken and a quorum was present. He then proceeded to introduce the members of the Board, and explain the procedure that would be followed during tonight's meeting.

Vice Chair Don Larson stated that the zoning regulations were found in the City's Unified Land Development Regulations (ULDR), and this Board, which was created under those regulations, consisted of seven members and three alternates. Presently, the Board was short one alternate, and

tonight only five members were present. He explained that this Board heard cases involving requests for variances, special exceptions, temporary non-conforming use permits, and appeals from zoning interpretations. These matters were considered quasi-judicial which meant that the hearings were similar to court proceedings, but were less formal. Cross examination was permitted but limited, and the Board would make their decision based on the evidence presented, and then weigh such evidence against the criteria in the Code.

Vice Chair Don Larson stated that variances are granted depending on the unique hardship attributed to the property involved, but not granted to the owner. The hardship could not be self-created either by the applicant or the predecessor in title. Economic hardships did not qualify for a variance. He further explained that the Board could not grant a variance where the use would be incompatible with adjoining properties or be detrimental to the public welfare. He further explained that after hearing all evidence, the public hearing would be closed and the matter returned to the Board for their deliberation. All motions would be made in the positive. In order for a variance to be granted, the applicant must receive a vote of the Board consisting of a majority plus one.

Vice Chair Don Larson then asked if anyone on the Board had any issues regarding signs.

2. APPEAL NO. 06-02

APPLICANT: Fort Lauderdale Women's Club

LEGAL: "Stranahan's Subdivision," The West 135 Feet of the South 100 Feet Block "D",
"Town of Fort Lauderdale" P.B. 3, P. 10 (D), Block 14, Lots 13-18

ZONING: RAC-CC (Regional Activity Center – City Center District)

STREET: 15 SE 1st Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-19.2.S (Mechanical and Plumbing Equipment) - Requesting a variance from 47-19.2.S Mechanical and plumbing equipment to allow a setback of 4' from the East property line as opposed to the usual 5' setback required in the Code.

Don Morris stated that the applicant was requesting that this item be deferred until the Board's February meeting.

Motion made by Birch Willey and seconded by Fred Stresau to defer this matter until February 8, 2006. Board unanimously approved.

Vice Chair Don Larson asked if the Board had any disclosures in connection with the items on tonight's agenda. Scott Strawbridge stated that he had spoken with Michael Madfis. Gerald Jordan stated that he also had spoken with Michael Madfis. Gus Carbonell stated that he also had spoken with Michael Madfis. Don Larson stated that he had spoken with Michael Madfis. Fred Stresau stated that he had also spoken with Michael Madfis.

Vice Chair Don Larson introduced staff that was present at tonight's hearing. He also welcomed Yvonne Blackman who was replacing Charla Lopez in the Planning and Zoning Office.

APPROVAL OF MINUTES

Motion made by Birch Willey and seconded by Fred Stresau to approve the minutes of the December 14, 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. 06-01

APPLICANT: Joti, Inc.

LEGAL: "Croissant Park," P.B. 4, P. 28, Block 38-L, N. 70 ft. of Lots 13 & 14

ZONING: RO – (Residential Office District)

STREET: 1236 S.E. 4th Avenue

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-25.3.3.d.i (Landscape Strip Requirements) – To permit parking spaces to be located inside portions of the buffer area required along portions of the East side property line where the buffer area was reduced to 2' – 2", on portions of the South side to 4' – 11" and 6' – 11 1/2" and on portion of the North side to 4' – 7" along the property line abutting residential properties where a ten (10) feet buffer yard is required, and where no parking is permitted within twelve (12) feet of the property line.

APPEALING: Sec. 47-20.5.C.3.a (Site Circulation) - To permit a two-way access drive of eighteen (18) feet in width where a twenty (20) foot access drive is required.

APPEALING: Sec. 47-5.60.6.f (Yards) – To permit the partial encroachment of roof overhangs and architectural elements such as a balcony overhang, stairs and bay windows projecting a maximum distance of three (3) feet into the side yards setback requirement of fifteen (15) feet and six (6) inches to a maximum of three (3) feet into the rear yard setback requirement of twenty (20) feet.

Fred Stresau stepped down during the discussion of this item due to a conflict of interest.

Michael Madfis, architect, stated that he was going to distribute hard copies of his presentation for the Board's review. He explained that the applicant was requesting three variances due to the hardship created through the zoning of the property. He stated that the property was unique in that it was surrounded by residential properties on three sides which required buffer yards, thereby imposing a hardship on the applicant. He continued stating that the first variance was in regard to the parking that encroached the buffer area. The second variance was in regard to a request for an 18' driveway, where a 20' driveway was required. He stated that there were some exceptions in the ULDR which permitted an 18' driveway. The third variance was in connection with minor encroachments into the setback with some elevated elements, such as stairs and bay windows. Such encroachments were sometimes permitted in accordance with the ULDR, especially if the property was to be developed for residential use. The intent would be to create character and movement in the façade, opposed to having a flat façade. He reiterated that they wanted to fit within the character of the neighborhood.

Mr. Madfis stated that they were required to have a 12' buffer yard, and there was a 15' setback around the property. He explained that the cars would encroach into the buffer area, and therefore, they were proposing to provide a 7.5' buffer area. He stated that there was an excess of open space around the building. He further stated that they were requesting an 18' driveway instead of a 20' one. He explained that the code did permit 18' driveways sometimes when up against an existing building or due to preserving vegetation. He explained that they were preserving an Oak tree in the southeast portion of the property. He explained that residential developments, which were on the

same site in the same zoning district, were permitted by code to extend up to 1/3 of the setback, but no greater than 3'. He proceeded to show elevations of the site which illustrated the encroachments. He stated that the granting of the variances would permit them to bring the building envelope in, reduce the overall bulk setback, and create character to the building. He also showed a rendering of the building in context with the surrounding neighborhood.

Vice Chair Don Larson proceeded to open the public hearing.

Diana Centorino stated that she owned the property to the north of the subject site. She explained that she had a Key West style property, and she liked the openness of the neighborhood. She realized that some changes would occur in the area, and she felt that Mr. Madfis had done a great job architecturally, but she was concerned about the open flow between the properties. She stated that a 3' wall was required next to her property and she would prefer to have the area remain open. She stated that she did not object to the structure, but asked if the wall was essential.

Scott Strawbridge stated that the more contiguous the site, the more graceful the appearance. He stated that normally when residential dwellings abutted a commercial site, a buffer area was required.

Vice Chair Don Larson stated that sometimes hedges were used as buffers instead of a wall.

Gus Carbonell stated that the Code required a segregation of residential properties from commercial properties. He stated that the property owners in the area could apply in the future for variances. He advised that there were variations of the types of walls that could be constructed between the two different types of properties. He stated that he also felt that hedges would be more appropriate in this case.

Don Morris, Planning and Zoning, explained that the wall requirements in the neighborhood compatibility section addressed the requirement of a 5' wall on non-residential property. Residential property was addressed in the criteria, but it did not omit the requirement when there were two non-residential properties next to each other. He stated that he would check as to how the zoning people were applying the requirement, and possibly something could be done depending on the interpretation. Otherwise, the property owners would have to apply for a variance.

Gus Carbonell explained that the wall did not go to the front, and was only in the area where the zoning change occurred. He believed the first 25' would not have the wall.

Ms. Centorino asked if the architect could show her on the model provided where the buffer wall would be constructed. Mr. Madfis proceeded to do that. He reiterated that the wall was needed because the BUA went to the property edge. An option was provided that they could provide a 3' landscape buffer, or provide a 30" wall.

Scott Strawbridge stated that the rendering showed that the 5' wall went to the building line. Mr. Madfis stated that it aligned with the building. He stated that the 30" wall was not shown. Scott Strawbridge stated that the rendering showed what it could be with another variance. Mr. Madfis confirmed.

Rich Robbie stated that he owned the property to the south and east, and on his plans he showed a 6' shadow box fence in the same position. He stated that the individuals purchasing his townhouses wanted privacy. He stated that he supported the variances being request.

Vice Chair Don Larson asked if Mr. Robbie would consider eliminating the 30" wall at the first 25'. Mr. Robbie stated that he probably was going to take the 6' fence from where his building stopped supplying a side yard to the west, and then connect with the wall at the north property line.

Don Morris explained that a 5' wall was required where residential property abutted commercial sites. He reiterated that a fence was not an alternative. He stated that there was a definition regarding residential property, which was if the property was zoned residential and used as residential or vacant. In this case, the property was not being used for residential purposes.

Ms. Centorino explained that her property was not being used as residential.

Don Morris reiterated that a wall was required by Code wherever residential properties abutted commercial sites.

Vice Chair Don Larson stated that he was referring to the first 25' from the sidewalk to the front of the building. Don Morris explained that a wall of 3' could be built from the property line provided it would be out of the vision of the clearance triangle.

Mr. Robbie stated that he was going to begin his construction on Monday. He explained that he would remove the fence and place a wall where required. He stated that his site would be segregated from the office building whether the subject property proceeded or not. He reiterated that he wanted to retain the look of privacy for his property owners making their yards secure.

Mr. Madfis stated that since his project was a smaller one, DRC review was not necessary, and therefore, no comments had been made regarding their site plan.

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

Motion made by Birch Willey and seconded by Gerald Jordan to close the public hearing. The Board unanimously approved.

Birch Willey stated that having additional landscaping in one area did not compensate for the areas which lacked landscaping. He added that he was concerned about the buffer zones in the parking areas because problems could arise.

Gus Carbonell stated that he was a believer that when one received, they gave as well. When there was a buffer yard, the neighbors looked at a 5' concrete wall, along with the canopy of the trees above. The main purpose would be to provide mature trees to create such a canopy. He stated that this area had spot zoning which created hardships in connection with compatibility. He further stated that the Code encouraged various architectural features, such as bay windows, eyebrows, and balconies to encroach 3' into setbacks so movement could be created. He stated that he did not know if such breaks would apply in RO zoning. He stated that he did not object to the 18' driveway being proposed. He continued stating that he did not know the status of the City creating a new zoning district for the area. He advised that recently the land use had been changed to Regional Activity Center, and once that was done the variances would not be necessary since such a center was more urban, and it would be considered more of a center city.

Motion made by Scott Strawbridge and seconded by Gerald Jordan to approve the request as submitted for a variance in connection with Section 47-25.3.3.d.i. Roll call showed: YEAS: Gus Carbonell, Gerald Jordan, Scott Strawbridge, and Don Larson. NAYS: Birch Willey. Motion carried 4-1.

Motion made by Scott Strawbridge and seconded by Gerald Jordan to approve the request as submitted for a variance in connection with Section 47-20.5.C.3.a. Roll call showed: YEAS: Gus Carbonell, Gerald Jordan, Scott Strawbridge, Birch Willey, and Don Larson. NAYS: None. Motion carried 5-0.

Motion made by Scott Strawbridge and seconded by Gerald Jordan to approve the request as submitted for a variance in connection with Section 47-5.60.6.f. Roll call showed: YEAS: Gus Carbonell, Gerald Jordan, Scott Strawbridge, Birch Willey, and Don Larson. NAYS: None. Motion carried 5-0.

Fred Stresau returned to the meeting.

3. APPEAL NO. 06-03

APPLICANT: Alhambra 14LLC

LEGAL: "Lauder Del Mar," P.B. 7, P. 30, Block 10, the South one-half of Lot 5 and all of Lots 6, 7 & 8.

ZONING: IOA – (Intracoastal Overlook Area)

STREET: 209 N. Birch Road, Unit 1401

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-12.5 (District Requirements and Limitations) – Requesting a variance from the yard requirements of the IOA Zoning District for Site Plan Level IV (ULDR Sec. 47-12.5(D)(1)(d)(i)) to permit: (i) a yard ranging from 27' to 35' for the south side yard where the ULDR Sec. 47-12.5(D)(1)(d)(i) requires a 40' yard for structures greater than one hundred fifteen (115) feet in height to allow for the placement of four (4) trellises on the exterior of Unit 1401 of Alhambra Place Condominium. One (1) trellis is located at each corner of the unit.

Robert Lochrie, attorney, stated that the request was to place four trellises around the patio area of Condominium Unit #1401 some of which would be within the setbacks, and some would be out of the setback. He proceeded to show photographs of the trellises. He explained that it would be a wooden structure that would be transparent and open. The concept was to place living material on the top, and they believed it would add significantly to the aesthetic appearance of the building and the functionality of the patio area. He further stated that they would be 115' into the air. He stated that the north/south property lines were not perpendicular to the east/west property lines, and therefore, the property had a trapezoid type shape which was unique. Portions of the trellis areas shown in blue on the map were outside of the generally required setback.

Mr. Lochrie further stated that the building "wedding caked," and began at ground level with a 10' setback, and at 35' the setback was 20' and so on. The trellis is well outside of the yard and was consistent with the 40' setback line, even though it encroached into the upper setback line. He stated that the site was unique in that the patio areas were completely exposed to the sun, and had no opportunity for shade. He stated that the structure would actually be part of the building and would be safer than other alternatives.

Vice Chair Don Larson stated that the building had been given special exceptions under setbacks. Mr. Lochrie stated that the matter had gone before the City Commission and had received a Site Plan Level IV review. He advised that the project had been granted the exceptions. Vice Chair Don Larson asked what was the hardship in this matter. Mr. Lochrie stated that the unit was unique in that there was no overhang over the patio area, and a normal type of patio cover could not be used in this instance. Vice Chair Don Larson stated that they could possibly be opening up "pandora's box" if this type of variance was granted. He further stated that he was concerned about the setback.

Robert Dunckel stated that the general setback or yard requirements for a building in this district was one-half the height. He asked what was the overall height for this building. Mr. Lochrie stated that the height of the building was approximately 150'. Mr. Dunckel stated that a building of that height would yield a much greater setback or yard requirement than what it had been built under. He continued stating that under the IOA district they were allowed to apply for a Site Plan Level IV City Commission yard modification which would be created in a "wedding cake" effect. At this height, the maximum yard modification which the Commission was permitted to grant under the ULDR was 40', and that building had been built within those specifications. He stated that during the design phase instead of a 40' setback, there could have been a 50' setback allowing for an accommodation possibly of a trellis.

Mr. Lochrie stated that the project had received approval and had obtained the 40' setback. He stated further that they had contemplated going back before the City Commission.

Scott Strawbridge asked for further clarification regarding the uniqueness of the land.

Mr. Lochrie stated that he would focus on the south side. He showed on the diagram the location of the property line which was not at a 90 degree angle to either Birch Road or the Intracoastal. He proceeded to explain how the setback ran. Therefore, part of the trellis would fall within the setback, but part of it would fall outside of the setback.

Scott Strawbridge further stated that the view from the road would show a few lineal feet of encroachment. Mr. Lochrie stated that from the north and south one would not see an encroachment because the structure extended out, but an encroachment would be seen from the other direction. Scott Strawbridge asked what the view would be from the intracoastal. Mr. Lochrie proceeded to show the area on the map. Scott Strawbridge clarified that the view would be the same, but would be a mirror reversal of the situation. He reiterated that they wanted to be certain that things would function well, while being aesthetically pleasing. He felt the visual impact from the ground or an equal level or even looking down on the area, it would encroach a minimal amount. Mr. Lochrie stated that they were actually talking about a couple of feet or less.

Birch Willey asked about wind velocity at that height. Mr. Lochrie stated that they wanted to put this shade structure into the building. Engineering standards would have to be met, along with wind load requirements.

Mr. Lochrie reiterated that a canopy would not be placed on the trellis.

Vice Chair Don Larson stated he was concerned about the winds and hurricanes. He also asked if they had received permission about changing the outside structure of the building in accordance with Chapter 719 of the Condominium Law. Mr. Lochrie stated that he was not aware whether they had gone through that procedure. He further stated that the owners had been notified that this was taking place.

Gerald Jordan stated that the engineers are going to be more vigilant since Hurricane Wilma.

Gus Carbonell stated that normally he did not like Mediterranean architecture for this type of structure, but the trellis would probably create a softer transition and make the building aesthetically pleasing. He further stated that some cities encouraged and specifically separated open trellises from setback requirements as long as they were not larger than the footprint below. He reiterated that many city codes were now encouraging the step-back design of buildings. Structurally, he felt more scrutiny would take place.

Scott Strawbridge asked what materials were going to be used on the proposed trellises. Gus Carbonell stated that it would probably be aluminum. Scott Strawbridge reiterated that plants would be used on the structure. Mr. Lochrie reiterated that the owner wanted a lot of greenery in order to add color and shade the area. He proceeded to show a photograph of the building.

Robert Dunckel stated that he was having second thoughts as to whether this matter should have come before this Board if condominium approval would be needed. Mr. Lochrie stated that he would stipulate that they would obtain whatever approvals required by either State law or the condominium documents. He stated that he did not know if such requirements were in place, and whether or not they had met those requirements. He clarified that the manager of the condominiums and the Association, along with the owners of the units, were all aware of this matter.

Robert Dunckel stated that the ownership interest was diminished in this case since it was subject to the condominium requirement. Mr. Lochrie stated that the property owner of record, Alhambra 14 L.L.C, did sign the application. Robert Dunckel reiterated that their ownership right was subject to the condominium documents. They did not have free and uninhibited use. He reiterated that he questioned whether this matter should be considered by this Board until such condominium approval was received. He stated that this was a unique situation.

Mr. Lochrie stated that for any type of improvements generally done, he did not know if the Building Department did an analysis of whether or not a condo association approval had been received. Robert Dunckel stated that he had not given it a thought until the matter was raised by one of the Board members.

Vice Chair Don Larson stated that they were changing the outside of the structure since it was going to be anchored into the building.

Scott Strawbridge stated that either way, this was a moot situation without receiving approval from this Board and the condominium association. He stated that he was not sure how a condo board would add authority to the application because he felt they were co-dependent.

Mr. Lochrie stated that he could think of many examples where there were condo associations, such as shopping centers and office buildings, who made application to the City, and the City did not make any type of independent review of those documents. He stated that if that step had to be taken, then they would do so.

Robert Dunckel stated that he was going to leave this up to the Board.

Scott Strawbridge asked what if the condominium documents stated that nothing unlawful could be done. He felt more problems could arise.

Gerald Jordan suggested that the variance be granted since it would still be up to the condo association to grant final approval.

Birch Willey stated that there was no urgency in this matter, and since there was a question of ownership, he suggested the matter be tabled.

Motion made by Birch Willey to table this matter until February 8, 2006. Motion died for lack of a second.

Motion made by Gerald Jordan to approve the application as submitted. Motion died for lack of a second.

Mr. Lochrie stated that due to the concern that the application was not filed correctly, he asked if the matter could be deferred.

Motion made by Scott Strawbridge and seconded by Fred Stresau that this matter be tabled until February 8, 2006. Roll call showed: YEAS: Fred Stresau, Gus Carbonell, Gerald Jordan, Scott Strawbridge, Birch Willey, and Don Larson. NAYS: None. Motion carried 6-0.

“For the Good of the City”

Scott Strawbridge asked about the request for a rehearing that had been raised.

Don Morris stated that the applicant had requested additional time in order to prepare for the hearing. The matter would be scheduled at a later date.

Motion made by Birch Willey and seconded by Gerald Jordan to adjourn the meeting. Board unanimously approved.

There being no further business to come before the Board, the meeting was adjourned at approximately 7:51 p.m.

Vice Chair

Don Larson

ATTEST:

Jamie Opperlee For Margaret A. Muhl,
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.
