

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, FEBRUARY 8, 2006 – 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</u></b>	<b><u>Absent</u></b>	<b><u>Cumulative from January 2005</u></b>
Gus Carbonell	P		14-1
Don Larson	P		14-1
Fred Stresau	P		13-2
Scott Strawbridge	P		15-0
Binni Sweeney, Chair	P		12-3
Gerald Jordan	P		2-1
Birch Willey	P		2-0

**ALTERNATES**

David Goldman	P
Don Zimmer	P

**STAFF**

Robert Dunckel, City Attorney  
Don Morris, Planning and Zoning

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

**GUESTS**

Robert Lochrie	Judy Dixon	Susan McClelland
Rhett Roy	Ari Sklar	Jose Horigian
Tracy Lautenschlager		

**CALL TO ORDER**

Chair Binni Sweeney called the meeting to order at approximately 6:33 p.m. Roll call was taken and a quorum was present. She then proceeded to introduce the members of the Board, and explain the procedure that would be followed during tonight's meeting.

**3. APPEAL NO. 06-04**

**APPLICANT:** Kaizer Taub

**LEGAL:** "Victoria Park," P.B. 15, P. 52, Block 13, the Northerly 25.0 Feet of Lot 5, All of Lot 4 and the Southerly 19.0 feet of Lot 3

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

**STREET:** 450 Victoria Terrace

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-5.31 (Table of Dimensional Requirements for the RS-8 District)**

Requesting a variance to install a windmill (Wind Generator) at 55' 0" height where the maximum height of a structure in the RS-8 District is limited to 35 feet.

Chair Binni Sweeney announced that this item would be deferred until the Board's April meeting.

**5. APPEAL NO. 05-40**

**APPLICANT:** Edwin C. Elwell/Paul Houlihan

**LEGAL:** "Osceola Park," P.B. 9, P. 46, Block 4, Lots 5 and 6

**ZONING:** RD-15 – (Residential Single Family/Duplex/Low Medium Density District)

**STREET:** 1820 SW 21 St.

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-3.3.B.3 (Non-Conforming Lot)** - To allow lots that are non-conforming, due to their areas, to be split into originally plated lots. Lots are presently merged because they are under single ownership.

**6. APPEAL NO. 04-41**

**APPLICANT:** Jon L. & Susan D. Shebel

**LEGAL:** "Rio Vista Isles Unit 3," P.B. 7, P. 47, Block 29, Lot 7

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

**STREET:** 1425 Ponce De Leon Drive

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-19.3G (Boat slips, docks, boat davits, hoists and similar mooring devices)** – Requesting a variance to permit a one (1) ft. setback from both side property lines where the Code requires a minimum five (5) ft. setback from the property line.

Robert Dunckel, Assistant City Attorney, said there were two items on tonight's agenda that were scheduled for a rehearing, but that there was a mail notice requirement connected with a notice of rehearing for all property owners within 300' of the subject site to be delivered 10 days before the hearing. He stated that such requirement had not been met for the two rehearsings on tonight's agenda.

Chair Binni Sweeney announced that the Board of Adjustment had jurisdiction to hear cases involving requests for variances, special exceptions, temporary non-conforming use variances, and appeals regarding interpretations made by zoning officials. She further advised that the proceedings were quasi-judicial meaning they were similar to court proceedings. Witnesses would be sworn and limited time would be available for cross examination. The Board would make all decisions based on evidence presented for each case which had to meet the criteria of the Code. She further explained that no hardship could be self-created, nor did economic hardships qualify. She stated that a majority of the Board plus one vote was necessary for granting a variance.

### **APPROVAL OF MINUTES**

**Motion** made by Birch Willey and seconded by Don Lawson to approve the minutes of the December 14, 2005 Board of Adjustment Meeting. Board unanimously approved.

**Motion** made by Birch Willey and seconded by Don Larson to approve the minutes of the January 11, 2006 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. 06-02**

**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 1<sup>st</sup> Street  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** **Sec. 47-19.2.S (Mechanical and Plumbing Equipment)** – Requesting a variance to allow a setback of 3' 6" from the North property line and allow a setback of 3' from the East property line, where Code requires a 5' setback.

Don Morris, Planning and Zoning, stated that originally a 4' setback was requested, but after reviewing all information, the setback was reduced to 3' 6". He explained that the item had been re-advertised and new notices had been sent to the property owners.

Chair Binni Sweeney stated that this matter had been deferred from the January 11, 2006 meeting.

Susan McClelland stated that she was the architect on the project.

Judy Dixon, Chair of the Restoration and Preservation of the Fort Lauderdale Women's Club, stated that they were requesting a variance to move the air conditioning unit to the northeast corner of the building. She further explained that this would be the first step in the renovation process.

Scott Strawbridge stated that by moving the air conditioner, it would be less visible from public view. He asked for some further information regarding the end result of the work on the north elevation.

Ms. McClelland explained that the original building was constructed in 1917 by August Geiger, and their objective was to restore that building. By moving the air conditioning unit the front porch could be restored.

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

Scott Strawbridge further stated that he was assisting this organization for the last three years and had helped in their historic designation process. He explained that the original portion of the building would be restored to its Mediterranean revival of its 1916 character, along with an adaptive re-use of the 1940's addition. He stated this would be the first step in the restoration process, and advised that he was in full support of this project.

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

## 2. 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.

Chair Binni Sweeney announced that this matter had been deferred from the January 11, 2006 meeting.

Robert Lochrie, attorney, stated that he was representing Michael Jackson, the owner of Unit 1401. He proceeded to show a map of the site. He explained the request involved placing four trellises at this unit. He further explained that the Board of Directors had given their unanimous approval for the requested improvements. He stated that in this zoning district the "wedding cake" approach was permitted for buildings. He stated that the trellises would be placed at 115' at the outdoor patio area and would be wooden transparent structures upon which landscaping would be grown. They would provide architectural enhancements to the building. He proceeded to show photographs of the subject trellises. He further stated that Rhett Roy would be the architect for this project. 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. 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.

Chair Binni Sweeney stated that she believed this was a self-imposed hardship, and if they began approving trellises, the effect is going to "snowball." She stated that the owner could erect an awning instead.

Mr. Lochrie stated that this was a unique situation because the property is located at 115', and the trellis was well within the setback area that the ground level was required to be in. It would not encroach further into any property lines. He stated that the hardship element was due to the height of the site, and awnings could rip and fall away. He explained that the trellis would have no permanent membrane, and therefore, would not face certain types of safety concerns during inclement weather. They felt such a structure would be more permanent and a safer one. He reiterated that this structure would enhance the aesthetics of the building.

Birch Willey stated he felt they would possibly be creating problems if this request was approved. He further stated he was concerned they would be establishing a precedent that would cause a hardship for someone at a lower level during a windstorm.

Mr. Lochrie reiterated that engineering standards would have to be met, along with wind load requirements.

Robert Dunckel stated that when this Board grants a variance they had the latitude to attach reasonable conditions that would assist in alleviating more difficult aspects of the variance.

Gus Carbonell stated that most new condominiums were providing large outdoor living areas, and individuals were not prevented from placing objects in those areas. Therefore, he felt the same issues were involved and items would have to be removed or secured during inclement weather. He further stated that the variance pertained to an encroachment into the setback which he did not think would be very noticeable. He felt the transition from the flat roof would enhance the aesthetics of the building.

Fred Stresau stated that the issue this evening involved an encroachment, and he felt the discussion tonight should be limited as to whether the variance would be appropriate or not. He did not feel the actual structure should be part of tonight's discussion.

Scott Strawbridge stated that the owners would have to receive approval for an awning also. He continued stating that most condominium balconies had items outside and had to be removed during inclement weather. He stated further that the Board did not have purview to determine what could and could not be placed on a balcony. He stated that the pedestrian view at 115' would not be impacted. He believed the encroachment would be very minimal.

Robert Dunckel stated that he wanted the Board to consider the criteria for the granting of a variance. He proceeded to read as follows: "The literal application of the provisions of the ULDR would deprive the application of a substantial property right that is enjoyed by other property owners in the same zoning district. It should be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property." Robert Dunckel explained that the subject building had gone before the City Commission requesting maximum yard

modifications particularly at the subject height. The unique hardship is not self-created by the applicant or his predecessors. The notion of the property lines not being perpendicular to the building was because that was how the applicant's predecessor chose to design it. He asked the Board to consider whether that was self-created or not.

Robert Dunckel continued reading the criteria as follows: "That the variance is a minimum variance that will make possible a reasonable use of the property and the variance will be in harmony with the general purposes." He felt the Board needed to inquire whether other alternatives were available to achieve the shade that was being desired without the variance.

Don Larson stated that the developer had chosen the footprint for the site giving him maximum utilization of the land. He felt there was no hardship involved and since many variances had been granted at the time the building was constructed, such requests should have been included at that time.

Mr. Lochrie stated that they were not requesting the trellis because it could be built, but they were requesting to make it symmetrical and pleasing to the public. He reiterated that the hardship involved was due to the property lines.

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

Gerald Jordan clarified that the trellis could still be built even if the variance was not approved. Mr. Lochrie explained that the variance encroachment was necessary on two sides.

Robert Dunckel asked if further clarification could be provided as to the amount of the variance that was being requested.

Mr. Lochrie explained that on one side of the building they were requesting a 5' variance, and on the other side a 13' variance. He reiterated that the trellis would be within the required yards at the ground levels and well behind the setbacks, and would offer a symmetrical design.

Robert Dunckel stated that a variance was needed at the southeast quadrant of 5' 10". Mr. Lochrie explained that the variance would be 5' 0". Robert Dunckel stated that a variance of 13' would be needed at the southwest quadrant. Mr. Lochrie confirmed. Robert Dunckel further stated that a variance of 13' 0" was required at the northeast quadrant, and the northwest quadrant would require a 5' variance. Mr. Lochrie confirmed.

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

**4. APPEAL NO. 06-05**

**APPLICANT:** Riverland Development Ltd.

**LEGAL:** "Westwood Heights," P.B. 6, P. 34, Block 85,  
Lots 1, 2 & 3 "Maryfield," P.B. 46, P. 44,  
"Parcel 2," Lots 1 and 2

**ZONING:** RMM-25 (Residential Mid-Rise Multi-Family/  
Medium High Density) and B-2 (General Business  
District)

**STREET:** 901-999 SW 27<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-20.10 (Tandem Parking)** –Requesting a variance to allow garage tandem parking for residential dwelling units in a mixed-use development. Tandem parking is only allowed in connection with single family, duplex and townhouse dwelling units.

Ari Sklar, architect, proceeded to show drawings of the proposed buildings, along with an aerial photograph of the park area. He stated that Riverland Park had recently been developed, and a new fire station was planned for the area. He explained that originally the project was to be a six-story building consisting of 28 units and parking. During DRC review concerns were raised regarding the scale of the project and it being more pedestrian friendly. Therefore, changes were made to the project, and it would now be a mixed-use project consisting of 3-stories and 16 units. The retail portion would consist of about 3,000 sq. feet. There would be rear parking and 3 extra spaces would be provided. The units would consist of two-stories and would be constructed similar to town homes. Corner features were accentuated, and individual garages would be provided for the units. He explained that tandem parking was permitted for single-family homes and townhouses, but this project was considered multi-family.

Birch Willey asked for further clarification of the rear parking that was to be provided. Mr. Sklar proceeded to show a rendering of the parking area, and explained that 18 parking spaces would be provided for the retail portion of the project, and guest parking.

Chair Binni Sweeney asked if the rear parking would be considered shared parking. Don Morris explained that uses required 24-hour parking spaces to be available. Mr. Sklar stated that the rear parking could be restricted on a time basis and could be included in their lease. Don Morris stated that it was up to the property owner as to how the extra 4 parking spaces would be utilized. Mr. Sklar explained that they had studied using mechanical parking, but felt it would be unsightly and would require more maintenance.

Birch Willey asked if the proposed plan had gone through DRC review. Mr. Sklar stated that they had met with staff and changes had been made, but this Board was the first stop in their approval process.

Scott Strawbridge asked for further explanation regarding the odd shape of the site. Mr. Sklar proceeded to show the site plan and explained that the parcel appeared to jog in and out. Scott Strawbridge asked if they had considered structured parking. Mr. Sklar stated that the initial proposal had considered structured parking, but the structure would be too large and unsightly next to single-family homes. Scott Strawbridge asked if the project would work if redesigned. Mr. Sklar stated that they had tried, but ramping was very difficult due to the width of the lots.

Gus Carbonell stated that the initial project was totally incompatible with the neighborhood. He stated that the lot fronted three streets, and he felt the newly modified project was much better for the area. He stated that the variance being requested was very minimal, and this project would help the neighborhood in their revitalization. He felt the City was going to have to start bending regarding such projects, if they wanted quality projects to come to these neighborhoods.

Don Larson asked if tandem parking was approved for this project would the Board be setting a precedent. Robert Dunckel stated that generally requests before this Board were not precedent setting because unique facts and circumstances had to be reviewed in each case. He explained that there would have to be two identical cases for the matter to be setting a precedent. Don Larson asked if there were two similar situations, but in different parts of the City, would there be a precedent set in the granting of the variance. Robert Dunckel explained that if the same land configuration, same plan, and same zoning was involved, then possibly a precedent could be set, but it was difficult to take two different areas of the City and compare them.

Chair Binni Sweeney asked why tandem parking was not permitted. Don Morris explained that normally tandem parking was permitted only in single-family or single-family attached town homes or duplexes. This type of parking did not work well in higher density areas and was more difficult to administer.

Gus Carbonell clarified that nothing was being done by right in this area. They were receiving flexible units and other boards would have to approve the project. He stated that he was concerned that the garages would not be used for parking. He recommended that some conditions be applied so enforcement would take place regarding the parking.

Mr. Sklar stated that the intent was that the project would function like townhouses.

Robert Dunckel asked what documents would be provided to make their intent for the project a reality. It was stated that there would be a condominium form of ownership and spaces would be assigned to a specific unit. The garages would only be accessed by owners of the units.

Scott Strawbridge asked if the owners could be prohibited from using the guest and retail parking spaces. He felt there needed to be a prohibition of storage preventing parking overflow into such parking spaces. He stated that if conditions were not applied regarding the parking, he would not be able to support this request.

Robert Dunckel suggested that a condition could be imposed to be incorporated into the condominium documents. He stated the practicality of the matter was who would be attempting to enforce the parking area.

Don Larson stated that he was concerned so there would be no subleasing in the area. Mr. Sklar stated that parking would result as a need of the owners.

Chair Binni Sweeney stated that parking would be available in the rear, and therefore, owners could use those spaces for their personal needs. Mr. Sklar stated that signage could be provided in the parking area. He felt that the retail establishments would enforce the parking spaces.

Jose Horigian, one of the developers, stated that the mixed-use concept entailed shared parking. He felt enforcement would be difficult, but they could attempt to do so.



Scott Strawbridge stated that the overflow parking could be detrimental to the surrounding neighborhood. Therefore, he did not understand how DRC could say this was compatible without assurances being provided.

Gus Carbonell stated that in these types of developments individuals were forced to park in their assigned areas.

Birch Willey stated that DRC felt six stories were incompatible and parking problems were created. He felt the hardship was that the developer was attempting to get DRC approval. He stated that this was a good project, but the area did not need further parking problems. He stated that variances should not be granted in order to stimulate development in areas.

Chair Binni Sweeney proceeded to open the public hearing.

Mr. Sklar reiterated that the project would consist of 16 units each with their own garage, and the garages would also provide some additional space for storage. He stated the area was pedestrian friendly. He added that they were willing to place restrictions in the condominium documents requiring individuals to park in their required spaces, and use restrictions would be placed on the site so night time users would not be tenants. He further added that restrictions would also be placed on the retail parking spaces and signage would be erected.

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

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

Birch Willey asked how many retail front doors would there be. Mr. Sklar replied there would be four. He stated that they envisioned that possibly some retailers would live above the business establishments.

Scott Strawbridge asked if Starbucks moved into the project, what would happen with the parking situation. Mr. Sklar explained that the retail spaces were not large enough for such a business. He reiterated that they were willing to place restrictions on the site prohibiting food establishments.

Don Morris stated that the site plan being presented showed parking calculations for office spaces and retail, and reiterated that restaurant uses required a larger parking requirement.

Chair Binni Sweeney asked if DRC would be swayed by the decision of this Board. Don Morris explained that DRC reviewed all technical requirements of the Code, and planners reviewed the project in relation to the neighborhood and whether traffic flow was compatible. He did not feel the tandem parking would have any sway in relation to neighborhood compatibility. He further stated that possibly the Planning and Zoning Board would raise some concerns about the parking. The matter also would have to be approved by the City Commission.

**Motion** made by Gerald Jordan and seconded by Birch Willey to approve the request as submitted. Roll call showed: YEAS: Gus Carbonell and Gerald Jordan. NAYS: Scott Strawbridge, Birch Willey, Fred Stresau, Don Larson and Binni Sweeney. Motion failed 2-5.

**“For the Good of the City”**

Fred Stresau stated that if the Planning Department permitted tandem parking for townhouses, than more detail needs to be provided as to why this Board should not approve projects regarding such parking. He felt if affordable housing was to be approved for the City, land was too valuable to be used for parking.

Gus Carbonell stated that this City had grown and Codes were changed, but then things stopped and mistakes had not been corrected. He stated that projects such as the one just presented could only be as successful as they were sold, and garages made the project more desirable. He reiterated that sometimes they had to look at reality versus obsolete codes.

Don Morris stated that he would review the reasoning on this with staff.

**APPEAL NO. 06-05**

(Continued)

Fred Stresau stated that in trying to meet the Planning Department’s requests, the developer had to incorporate tandem parking into the project.

Birch Willey asked what would happen if the retail portion of the project was eliminated. Fred Stresau stated that Planning would not approve the project without retail. Gus Carbonell stated that this was highly recommended and would make the project more pedestrian friendly.

Mr. Sklar stated that he did not feel the code when written envisioned the types of projects that are being constructed at this time. Possibly they could reduce some of the retail and increase the plaza area of the site. Mr. Horigian stated that in attempting to comply with the Planning Department’s requests, they had to reduce the stories of the building and tandem parking had to be incorporated.

Don Morris stated that there was a history regarding mixed-use with townhomes and he would research the matter and provide the information to the Board.

Fred Stresau stated that such information would be helpful. He continued stating that if there was more surface parking, than the project might be more palatable. He stated that the only way affordable housing would be possible would be for the City to be more economic in planning their land use. He reiterated that parking was expensive.

Mr. Sklar asked if they could return with a modified project. Don Morris explained that a new application would have to be submitted.

Tracy Lautenschlager asked if the Board would reconsider their vote regarding Appeal 06-05, and then they would withdraw their petition.

Robert Dunckel stated that would be a creative solution to this issue. If a motion to reconsider was approved, that would be tantamount to vacating the order of denial. Once the order of denial was vacated, the issue would be back in front of the Board. If the application was withdrawn, then the applicant could make changes and another presentation could be made.

**Motion** made by Birch Willey and seconded by Scott Strawbridge to reconsider Item 06-05.

Fred Stresau stated that he wanted to hear some reasoning as to why tandem parking was not permitted.

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

Ms. Lautenschlager stated that they wanted to withdraw their petition.

**Motion** made by Don Larson 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 8:25 p.m.

Chair

\_\_\_\_\_  
Binni Sweeney

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.

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