Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, May 10, 2006 – 6:30 P.M.
City Hall
City Commission Chambers – 1st Floor
100 North Andrews Avenue
Fort Lauderdale, Florida

		Cumulative 2006	
Board Members	**Attendance**	**P**	**A**
1. Gus Carbonell	**P**	**4**	**1**
2. Gerald Jordan	**P**	**5**	**0**
3. Don Larson	**P**	**5**	**0**
4. Scott Strawbridge	**P**	**5**	**0**
5. Fred Stresau	**P**	**4**	**1**
6. Birch Willey	**P**	**5**	**0**
7. Binni Sweeney, Chair	**P**	**4**	**1**
Alternates			
David Goldman	**P**		
Don Zimmer	**P**		

Staff

Robert Dunckel, Assistant City Attorney
Don Morris, Planning and Zoning
Yvonne Blackman, Planning and Zoning
Sandra Goldberg, Recording Secretary

Guests

Wilson Atkinson
Dick Coker
Deborah Lipster-Meyer
Richard Buell
Greg Salsburg
Paul Salsburg
Robert Lochrie
Neyda Otero
Michael Madfis
Michael Schiff
Molly Taylor
Sarah Stewart
Erin Clark
John O'Brien
Carol O'Brien
Hisham Suliman

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Call to Order

Chair Sweeney called the meeting to order at 6:30 P.M., then proceeded to introduce the members of the Board and explain the procedure that would be followed during tonight's meeting.

Approval of Minutes

Motion made by Mr. Larson and seconded by Mr. Jordan to approve the minutes of the April 12, 2006 Board of Adjustment Meeting. Board unanimously approved.

Board members disclosed communications they had regarding agenda items.

Mr. Stresau said he had a conflict with Item #3; Chair Sweeney asked Mr. Goldman to take Mr. Stresau's place when Item #3 was heard. Chair Sweeney remarked that signs were not present at the property when she drove by. The applicant confirmed that he had not received the signs to post. Mr. Dunckel advised that Item #3 must therefore be deferred to their June meeting.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

1. APPEAL NO. 06-04 (*Deferred from February 8, 2006 Meeting)*

APPLICANT: Kaizer Talib
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 wind-mill (Wind Generator) at 55'-0" height where the maximum height of a structure in the RS-8 District is limited to 35 feet.

Chair Sweeney informed everyone that the City was requesting a deferral on this Item to the Board's June meeting. Mr. Morris explained that staff needed additional time to have analyses performed by a consultant.

Mr. Kaiser Talib, owner of the house, felt that many people present would like to see the materials this evening, since they were already here. Mr. Dunckel informed the Board that Mr. Talib had been "extremely cooperative" and agreed with Mr. Morris that additional expert analysis was required in this case. Mr. Dunckel felt it was best to present the case at their June meeting.

Motion made by Mr. Stresau and seconded by Mr. Larson to defer the case to the Board's June meeting. In a voice vote, Board unanimously approved.

2. APPEAL NO. 06-08 (*Deferred from April 12, 2006 Meeting)*

APPLICANT: AMAS Dev.-Bontona, LLC
LEGAL: "Resubdivision of Blocks 5 & 6 of Vince", P. B. 47, P. 26, Block 5, all of Lot 27 and the North 35.00 feet of Lot 26
ZONING: RS-8 – (Residential Single Family Low Medium Density District)
STREET: 309 Bontona Avenue
ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-5.31 (Table of Dimensional Requirements for the RS-8 district) Requesting a variance to permit a 20' rear yard setback from the waterway, where Code requires the minimum rear yard setback to be 25' when abutting a waterway.

Mr. Dick Coker, attorney for AMAS Developers, explained that that this property was immediately south of 5-story, 4-unit Maison Blanc condo, also developed by Mr. Schiff. A single parcel had been split for the condo/single family home projects. In the City's records, the property was zoned RM-25. The architect had prepared plans based on the RM-25 zoning, including the 20-foot rear setback requirement, and a 30-foot front yard setback. Mr. Coker explained that the City had reviewed and approved the plans as RM-25, and construction had commenced. During construction, Mr. Schiff had conferred with City staff and agreed that the property was actually zoned RS-8. Construction had stopped so Mr. Schiff could seek the variance.

Mr. Coker described the building's placement on the property, noting that architectural columns were located at 20 feet. Mr. Coker referred to a rendering of the building without the columns and noted there was "nothing to be gained by forcing the developer to cut off the building and remove all the architectural features." Mr. Coker felt that the City and developer shared blame for the problem, and asked for a rear setback variance of 20' for the Cabana bath and columns, and a 24' setback for the rest of the building.

Mr. Coker confirmed for Mr. Strawbridge that the photos showed the building in its present state. Mr. Michael Schiff, principal owner of the property, explained that the columns had been poured up to the first floor tie beams; the tie beams had been formed up and the steel was in, but had not been poured yet.

Mr. Coker noted they had a letter from the condo owner across the canal stating they did not object to the project.

Mr. Willey wanted to ensure that the open space between the columns could never be filled in; Mr. Coker agreed to ensure this in whatever way Mr. Dunckel felt was appropriate.

Mr. Richard Buell, Lighthouse Point resident, preferred the building's design with the colonnade.

Ms. Deborah Lipster-Meyer, neighbor, said she was speaking on behalf of herself and several other neighbors. She explained that prior to Mr. Schiff's purchase of the property, a motel was located there that was "very unsightly." Mr. Schiff's development of the property had made an "amazing transformation" of their street, making them a landmark street. She felt Mr. Schiff's development added to the value of the neighborhood. Ms. Meyer stated she was also a realtor who had sold property in the area and had sold several of the Maison Blanc units for Mr. Schiff. Ms. Meyer felt that Mr. Schiff's buildings were masterpieces of architecture that added distinction and value to the neighborhood. Mr. Strawbridge asked if Ms. Meyer would be the realtor for this home; she said that was up to Mr. Schiff.

Chair Sweeney confirmed that there was no formal Homeowner Association on that street.

Ms. Molly Taylor explained that she was here representing Mr. Barry Peterson, who lived adjacent the Maison Blanc. He had sent Ms. Taylor a letter authorizing her to speak on his behalf and stating his opposition to the project, which Ms. Taylor presented to the Board. In the letter, Mr. Peterson stated he felt the building would "drastically reduce our views as well as the value of the property."

Mr. Greg Salsburg, who lived immediately adjacent to the project, said he had four letters from other neighbors who were opposed to the project, and presented the letters to the Board. Mr. Salsburg felt it was "inexcusable" and "unprofessional" for Mr. Schiff to have made such a mistake on his plans. Mr. Salsburg felt the hardship was indeed self-created. Mr. Salsburg stated he had some issues with the project from the start. The builders had tapped into his electric without asking when construction was starting. Approximately six weeks ago, a cinderblock wall had been erected that encroached on his property. The owner requested an easement, which he agreed to consider if they would submit a survey and letter for consideration by Mr. Salsburg's attorney. The applicant had subsequently never sent anything to Mr. Salsburg.

Mr. Salsburg said that five feet might not seem like a lot, but in his backyard, it was "very significant," definitely impeded his view and would ultimately affect his property values. He felt the main fault lay with the developer and builder and that granting the variance would set a dangerous precedent.
Mr. Paul Salsburg, neighbor, said he felt that setbacks contributed to the "integrity of the street" and should be honored, and he was therefore opposed to any variance.

Mr. Coker said this was a "unique circumstance," an error that started with the fundamental information the City gave developers and builders. He noted that only the columns encroached into the setback, and Mr. Salsburg's trees already interfered with his view. Mr. Coker felt that if the Board weighed the equities, they would find this a justified variance.

Mr. Larson asked Mr. Coker if Mr. Schiff would agree never to close in the second floor as well as the colonnade if the Board approved the variance. Mr. Coker agreed.

Chair Sweeney asked Mr. Schiff if he had asked the Board of Adjustment for a variance for the Maison Blanc. Mr. Coker did not believe he had. Chair Sweeney remembered that it was acknowledged at a previous hearing that the single piece of property comprised two zoning districts. Mr. Dunckel remembered this several years ago as well. Chair Sweeney felt the developer was therefore being disingenuous in claiming that no one realized that there were two different zones. Mr. Coker reiterated that all information available from the City showed the property to be zoned RM-25.

Mr. Coker confirmed for Mr. Dunckel that his client stipulated that the columns were at 20 feet. He asked that the record be supplemented to show the ties at 24 feet and Mr. Schiff agreed.

Mr. Schiff said the City's zoning map showed the property was zoned RS-8; the City's GIS showed it zoned RM-25 and RS-8. He noted that the house could have been resituated to comply with the 25-foot setbacks if anyone had noticed the error prior to construction.

Mr. Schiff said Ms. Meyer had spoken on behalf of the second floor Maison Blanc neighbor, Ray Sanchez, and the fifth floor Maison Blanc neighbor.

Mr. Strawbridge asked Mr. Dunckel if the onus was on the City or the property owner to determine the impact on a property when it was subdivided. Mr. Dunckel thought the onus was shared. Mr. Schiff explained to Mr. Strawbridge the columns and the wall must be removed, and the building would be "plain" if he did not obtain the variance. Mr. Strawbridge felt that Mr. Schiff could redesign the building to comply and still be architecturally interesting.

Mr. Stresau said he had encouraged Mr. Schiff to create the two alternate drawings he presented this evening because he agreed that taking the house back to 20 feet would make it very plain. Mr.

Carbonell noted that the property directly across the canal had the same 20-foot setback. He felt that as long as they did not enclose the upper story, it would be acceptable.

Mr. Larson thanked Mr. Schiff for bringing this issue to the City; he felt that most builders would not have done this. Chair Sweeney agreed, but agreed with Mr. Strawbridge that there must be design alternatives.
Motion made by Mr. Stresau and seconded by Mr. Larson to close the public hearing and bring the discussion back to the Board. In a voice vote, the Board unanimously agreed.

Mr. Jordan felt they must listen to the neighbors. He thought Mr. Schiff could remove the architectural features and "dress up the back of the house." He felt they should try to work something out, perhaps bring it back to the 24-foot point.

Mr. Stresau remembered a similar situation of a large single-family home on Riviera to which the Board of Adjustment had denied a variance, only to have that decision overturned by the City Commission on appeal.

Mr. Coker admitted that the design of the house would suffer if they went with a 1-foot variance instead of a 5-foot variance, but "it wouldn't be the death knell." Mr. Coker amended the request to a 1-foot variance [instead of 5 feet]. Mr. Dunckel clarified that this involved the kitchen, which was currently at 24 feet. Mr. Stresau felt that lopping off the architectural features would ruin the design of the building. Mr. Larson agreed, and saw no reason to punish the owner for the mistake.

Chair Sweeney asked Mr. Salsburg how he felt about a 1-foot variance; Mr. Salsburg said he would be more amenable to this, but still felt the rules should be followed. Mr. Salsburg said he doubted the builder would simply lop off the side of a $4 million building; he felt they would redesign it to make it more marketable.

Mr. Willey said, "I could live with 24, but I can't live with columns."

Mr. Dunckel said they needed a survey to be certain of the measurements. Mr. Don Zimmer, architect and Board alternate, said it appeared that the measurements on the survey were not made properly. Mr. Dunckel admitted that the difference was miniscule, but noted that problems could arise later when someone went into the field and started taking measurements. Mr. Dunckel cautioned the Board that if the case were denied as written, the owner would be precluded from coming back and requesting 24 feet because it had already been denied. He felt some thought must be put into how to fashion the motion and perhaps the ties should be placed in the survey so the motion could be made with more specificity. Mr. Stresau noticed that there was as much as a 1-3-foot difference between the south property line pin and the wet face of the sea wall on the survey.

The Board discussed the measurements and placement of the house on the site. Mr. Schiff suggested that the setback be based on the face of the kitchen wall, instead of a measurement. If not, he said he would return in June with another survey. Mr. Dunckel said the order could be worded that way.

Motion made by Mr. Carbonell and seconded by Mr. Jordan to approve the request subject to the setback's being aligned with the existing kitchen wall plus the stucco that was to be applied. In a roll call vote, the motion was approved 7 – 0 as follows: Yeas: Mr. Carbonell, Mr. Larson, Mr. Stresau, Mr. Strawbridge, Mr. Jordan, Mr. Willey, and Chair Sweeney. Nays: None.

4. APPEAL NO. 06-13

APPLICANT: C. Allen Bodford
LEGAL: "Coral Isles", P. B. 15, P. 60, Block 2, Lot 25
ZONING: RS-4.4 (Residential Single Family/Low Density District)
STREET: 521 San Marco Drive
ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47.19.2.P. (Accessory Buildings and structures general - Freestanding shade structures)
Requesting a variance to allow a shade structure ("Tiki Hut") to set back a distance of 7.3 feet from the waterway, where 10 feet is required from the waterway, and to allow 611 square feet of said shade structure to be within the required yard area, where the Code allows a maximum of 200 square feet to be located in the required yard.

Ms. Sarah Stewart, SS Consulting, explained that the property was purchased in March 2005. From April to December 2005, the owners had made improvements to the property with the intent to sell it. They had pulled the proper permits and had proper inspections all along. They then contracted with a Tiki Hut builder, who told Ms. Clark that they were Seminole Indians and did not need to comply with City codes. Ms. Stewart read from State Statute, "Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, as used in this paragraph, the term Chickee means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials and that does not incorporate any electrical, plumbing or other wood features, and that is under the following building structures and facilities are exempt from the Florida building code."

Ms. Stewart explained that Ms. Clark had doubted this, and asked the builders to go to the City and request a permit. They had received a document from the City stating, "No permit needed," which was signed by Bruce Andres and Ms. Clark was satisfied. One of the City inspectors had later noticed the hut and informed Ms. Clark that the hut was subject to zoning review, but the builders once again told her that everything was fine. Ms. Clark later reviewed all of the permits to make sure they were closed and noticed an open permit for "open structure." An inspector had noted,

"Your Chickee Hut is in the required yard, therefore it cannot be larger than 200 square feet and any taller than 12 feet." Ms. Clark had contacted Ms. Stewart, who contacted Mr. Morris.

Ms. Stewart felt the inspector was wrong about the square footage limit, and Mr. Morris agreed that the square footage limit applied to the hut's intrusion into the required yard [setback] area, and could be larger if it was not in the required yard area. The height was still a problem; it was 18' tall and only 12' was allowed. Ms. Clark obtained a letter from the Tiki Hut builders in November, who said they were requesting a variance for the hut. They sent another letter stating they would lower the roof to twelve feet to comply, and subsequently did so.

Mr. Strawbridge pointed out that the State Statute did not exempt the Indians from the ULDR, only from Florida building code. Ms. Stewart displayed photos of the hut's position on the property, and clarified the code's placement requirements. Ms. Stewart had met with Mr. Rice, who had made the original objections to the hut's placement, and he informed her that the placement applied to the 25-foot rear setback. Ms. Stewart said the hut intruded 5 square feet into the side setback and 605 square feet into the rear setback. They had asked the Tiki Hut people to remove the hut and they refused, and the owner's attorney advised them against trying to sue the Seminole Indians. They had then decided to apply for a variance.

Ms. Stewart said the owners had letters from every neighbor within eyeshot of the hut, supporting the owners' request for the variance.

Ms. Erin Clark, property owner, confirmed that there was no electric or plumbing in the hut. Mr. Willey said he had been in the hut and it was "like a condominium Tiki Hut." Mr. Willey thought the hut's proximity to the waterway was a problem. Ms. Stewart admitted that the hut was supposed to be 10 feet from the water and it was only 7.3 feet from the water.

Motion made by Mr. Stresau and seconded by Mr. Strawbridge to close the public hearing and bring the discussion back to the Board. Board unanimously approved.

Mr. Jordan agreed with Mr. Willey that the hut was "really too big," and said the City had codes that contractors must follow. The hut protruded into the setback and was oversized. He felt this did not set a good precedent for putting such large structures in a backyard. Mr. Jordan said he also had no sympathy for the owners, and felt they should have pursued the permit question. He felt the hut could be resized to comply with code.

Chair Sweeney said the hut was "tantamount to adding 600 square feet to your house; it's humongous, just humongous."

Motion made by Mr. Jordan and seconded by Mr. Stresau to approve the request. In a roll call vote, the motion was denied 0 - 7 as follows: Yeas: None; Nays: Mr. Carbonell, Mr. Larson, Mr. Stresau, Mr. Strawbridge, Mr. Jordan, Mr. Willey, and Chair Sweeney.

5. APPEAL NO. 06-14

APPLICANT: John and Carol O'Brien
LEGAL: "Imperial Point Fourth Section", P. B. 56, P. 11, Block 31, Lot 4
ZONING: RS-8 (Residential Single Family Low Medium Density District)
STREET: 1861 NE 65th Street
ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-5.31 (Table of Dimensional Requirements for the RS-8 district) Requesting a variance to allow a shed to setback 17.46' from the corner side yard, where Code requires a minimum setback of not less than 25% of the lot width which in this case is 22.5'.

Mr. John O'Brien, property owner, explained that there had been a storage shed on the northeast corner of his yard that was destroyed by a ficus that collapsed in Hurricane Wilma. Code required a 22.5-foot setback from the side street, which came to within 1 foot of the O'Brien's house. Mr. O'Brien described the property and pointed out that the southeast corner was the only place where there was room to locate the shed.

Mr. O'Brien said Hurricane Wilma had created the hardship by destroying the existing shed. The old shed was 11' X 7'; the new shed was 6' X 6'. The new shed would be the same color as the house and would be hidden from view by a large hedge. Mr. O'Brien said no neighbor was opposed to the new shed.

Motion made by Mr. Larson and seconded by Mr. Jordan to close the public hearing and bring the discussion back to the Board. Board unanimously approved.

Mr. Carbonell thought that code allowed an accessory structure under 12' high and less than 120 square feet to be within 5 feet of the rear yard and thought there was enough room outside the pool in the back yard. Mr. Strawbridge complemented Mr. O'Brien on his application and said he felt they should allow it.

Motion made by Mr. Strawbridge and seconded by Mr. Larson to approve the request. In a roll call vote, the motion was approved 7 - 0 as follows: Yeas: Mr. Carbonell, Mr. Larson, Mr. Stresau, Mr. Strawbridge, Mr. Jordan, Mr. Willey, and Chair Sweeney; Nays: None.

6. APPEAL NO. 06-15

APPLICANT: Pine Crest Preparatory School, Inc.
LEGAL: Parcel "A" of "Coral Ridge Isles", according to the Plat thereof, recorded in P.B. 45, P. 47 of the public record of Broward County. Less and except that portion of Parcel "A" conveyed to Broward County in deed recorded in official records Book 28335, Page 194 of the public records of Broward County

ZONING: **CF-S (Community Facility-School (CF-S District))**
STREET: **1501 NE 62nd Street**
ADDRESS: **Fort Lauderdale, FL**

APPEALING: Sec. 47-8.30 (Table of dimensional requirements for the CF-S District) Requesting a variance to allow the construction of a 1,500 square foot mechanical/electrical room on top of an existing 15,398 square foot Dining Facility on a school property where the ULDR Code section 47-8.30 limits gross floor area to a maximum of 10,000 square feet.

Mr. Robert Lochrie displayed a rendering of the existing Pine Crest site, and explained that the request pertained to the 15,000 square foot dining facility in the middle of the site. Mr. Lochrie remarked that the dining facility was built in 1964 and was in desperate need of renovation. Part of this renovation would include the installation of a fire sprinkler system, hurricane-proof glass and other improvements to bring the building up to current code.

Mr. Lochrie continued that they had begun meeting with the Building Department in November to determine what must be done and where the best placement was. They had determined that this location was best and would not have an impact on neighboring properties. Mr. Lochrie noted that this would not add any habitable space to the property.

Chair Sweeney asked if 15,000 square feet was permitted when it was originally built. Mr. Lochrie admitted that "to say that Pine Crest has been treated differently as it's gone through the process at different times would be kind of an understatement." Mr. Lochrie noted that code was adopted in June 1997, allowing additional square footage after full site plan review. Since 1997, 252,000 square feet had been added to the school without going through that process.

Mr. Lochrie informed the Board that they intended to refurbish the entire dining hall, and the best time to do this was during the summer when school was not in session. Mr. Lochrie requested variance from the terms that would restrict them to 10,000 square feet, so they could go through the staff level review for the addition, which amounted to a .2% addition to the entire site.

Mr. Lochrie clarified for Chair Sweeney that they intended to gut the dining facility, not raze and rebuild it.

Motion made by Mr. Larson and seconded by Mr. Jordan to close the public hearing and bring the discussion back to the Board. Board unanimously approved.

Motion made by Mr. Larson and seconded by Mr. Stresau to approve the request. In a roll call vote, the motion was approved 7 - 0 as follows: Yeas: Mr. Carbonell, Mr. Larson, Mr. Stresau, Mr. Strawbridge, Mr. Jordan, Mr. Willey, and Chair Sweeney; Nays: None.

Report and For the Good of the City

Mr. Morris had researched Mr. Stresau's question regarding the prohibition of tandem parking in mixed-use developments, while they did allow it in town houses, single-family and duplexes. Mr.

Morris stated that the zoning code defined town houses as single family. He continued that there were two types of mixed-use: single-use and traditional, meaning commercial on the first floor and residential on the second floor. The City was now allowing single-use, mixed-use developments of 5 acres or less to develop as town houses, and these could have tandem parking. The traditional mixed-use units were not considered town houses, duplexes or single-family and they did not fall under the code requirement allowing tandem parking.

Mr. Stresau said for the project they had discussed two meetings ago, he and Mr. Carbonell felt the units were townhouses, and they were seeking tandem parking. Mr. Stresau thought staff's opinion was that because it was mixed use, and because there might be co-mingling of residential and commercial parking, staff feared there would not be enough parking for the commercial.

Mr. Morris said the problem was that the City had not crafted language flexible enough to apply to certain circumstances, and some atypical situations would suffer when the City tried to apply the requirements consistently. Mr. Carbonell felt there must be a change in the ULDR.

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

Chair

_____
Binni Sweeney

ATTEST:

_____
Sandra Goldberg For Jamie Opperlee,
Recording Secretary

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