

**Board of Adjustment Meeting**  
**City of Fort Lauderdale**  
**Wednesday, August 9, 2006 – 6:30 P.M.**  
**City Hall City Commission Chambers – 1st Floor**  
**100 North Andrews Avenue**  
**Fort Lauderdale, Florida**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative 2006</u>	
		<u>Present</u>	<u>Absent</u>
1. Gus Carbonell	P	6	2
2. Gerald Jordan	P	8	0
3. Don Larson	P	8	0
4. Scott Strawbridge	A	7	1
5. Fred Stresau	P	7	1
6. Birch Willey	P	6	2
7. Binni Sweeney, Chair	P	6	2

**Alternates**

David Goldman	P
Don Zimmer	A

**Staff**

Sharon Miller, Assistant City Attorney  
 Don Morris, Planning & Zoning  
 Yvonne Blackman, Planning & Zoning  
 Sandra Goldberg, Recording Secretary

**Guests**

Pete Ebersole	Linda Morella
Ron Fairchild	Debbie Orshefsky
Judith Scher	Mel Rubenstein
Walter Morgan	A. Piedro
Robin deDon	Jerry Squadrito
Nolan Haan	Jeff Faulkinger
Alan Tinter	Walter Morgan
Amaury Piedra	

## Index

<u>Case Number</u>	<u>Applicant</u>	<u>Page</u>
06-23	Alex Glass	<a href="#">2</a>
06-26	Tarpon Ventures LLC	<a href="#">3</a>
06-27	Linda Morella	<a href="#">4</a>
06-28	Dr. Fred Reineke	<a href="#">5</a>
06-29	A1A Trader LLC	<a href="#">6</a>
06-30	Andrew Wright	<a href="#">7</a>
Report and for the Good of the City		<a href="#">10</a>

## 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.

Mr. Stresau announced that notice for 233 Southwest 9<sup>th</sup> Avenue was not posted properly; Mr. Willey agreed. Mr. Nolan Haan, representative of the applicant, said he had been informed by someone at Planning and Zoning that the sign could be removed since the public hearing portion of the case was closed.

Assistant City Attorney Miller cited the Section of code that stated that the sign must remain posted until final disposition of the case.

**Motion** made by Mr. Stresau and seconded by Mr. Willey to continue the case to the September 2006 Board of Adjustment Meeting. Board unanimously approved.

## Approval of Minutes

**Motion** made by Mr. Stresau and seconded by Mr. Larson to approve the minutes of the June and July 2006 Board of Adjustment Meetings. Board unanimously approved.

Board members disclosed communications they had regarding agenda items.

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

**1. APPEAL NO. 06-23** (*Deferred from July 12, 2006 Meeting*)

[Index](#)

**APPLICANT:** Alex Glass

**LEGAL:** "Waverly Place", P. B. 2-D, P. 19, Block 113, Lots 1-4

**ZONING:** RML-25 (Residential Low Rise Multifamily/Medium High Density District)

**STREET:** 233 SW 9<sup>th</sup> Avenue

**ADDRESS: Fort Lauderdale, FL**

**APPEALING: Sec. 47-24.5.A.3.a (Subdivision regulations)**

Requesting a variance to allow two single family detached dwellings on a lot, where Code allow a maximum of one (1) single family dwelling unit or duplex on a lot or parcel which lot or parcel was of record as such in the official records of the County as of March 1, 1989.

Continued to the September 2006 hearing. [see above]

**2. APPEAL NO. 06-26**

[Index](#)

**APPLICANT: Tarpon Ventures, LLC**

**LEGAL: "Lauderdale Lying North of Tarpon River", P.B. 2, P. 9, Block 1, Lot 13**

**ZONING: RAC-RPO (Regional Activity Center –Residential Professional Office District)**

**STREET: 400 SE 9<sup>th</sup> Court**

**ADDRESS: Fort Lauderdale, FL**

**APPEALING: Sec. 47-20.5.C.6.a (Minimum stacking distance)**

Requesting a variance to allow a 5' 6" stacking distance from the garage door to the property line, where the required stacking distance is 22'.

**APPEALING: Sec. 47-20.15 (Backout Parking)**

Requesting a variance to allow backout parking for a residential use on property zoned RAC-RPO, where such backout parking is only allowed on residentially-zoned property.

Mr. Pete Ebersole, project architect, explained that he was reducing thee one-story apartments into two "townhouse-like" units. Mr. Ebersole explained that the buildings and their attached garages would be located close to the property line, and the RAC-RPO zoning allowed for a five-foot setback on the front of the property, but also called for 22 feet from the property line to the garage doors. Mr. Ebersole explained that it would be very difficult to put four parking spaces on this piece of property and maintain 22 feet to the property line.

Mr. Ebersole said the 50-foot wide right of way onto which the garages would open was a "dead end piece" that would only be utilized to access the townhouses. The street on the other side of the parcel was much more heavily traveled and Mr. Ebersole felt that situating the garages to back out onto the right of way was a safer design.

Mr. Ebersole explained to Mr. Stresau that they had discussed vacating the right of way, but one of the utility companies had refused to support this. Chair Sweeney felt the lot was jus too small for this project. Mr. Ebersole said the geometry of the lot, the setback, and the parking requirements were at odds.

Chair Sweeney proceeded to open the public hearing. There being no one present from the public wishing to address the item, she closed the public hearing and brought the discussion back to the Board.

Mr. Carbonell confirmed that this right of way was in fact an alleyway, even though it was named. He also thought Mr. Ebersole's design was "the best that could be done under the circumstances." Mr. Larson felt that locating the garages here would minimize traffic problems with backing out. Mr. Willey said he first thought this was a good way to stack the cars on the property, but after further consideration, felt the hardship was that the owner was trying to put more on the property than the code allowed. Chair Sweeney agreed that the property was not big enough for this design.

Mr. Stresau said he believed that if the utility would have agreed to abandon the section of right of way, the variance would not have been needed and the owner's plans were being held up by the utility company. He hoped the owner would pursue the vacation if the variance was not granted.

**Motion** made by Mr. Jordan, seconded by Mr. Larson, to grant the variance for the minimum stacking distance. In a roll call vote, the motion was approved 5 – 2 with Mr. Willey and Chair Sweeney opposed.

**Motion** made by Mr. Larson, seconded by Mr. Jordan, to grant the variance for the back-out parking. In a roll call vote, the motion was approved 6 – 1 with Chair Sweeney opposed.

### 3. APPEAL NO. 06-27

[Index](#)

**APPLICANT:** Linda Morella

**LEGAL:** The E 135 feet of the W 185 feet of the S ½ of the N ½ of the Northwest ¼ of the NW ¼ of the Southeast ¼ of Section 21, Township 50 South, range 42 East, excepting therefrom the North 25 feet and the South 25 feet thereof, less the East 60 feet.

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

**STREET:** 1494 SW 32<sup>nd</sup> Court

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-19.5 (Fences, walls and hedges)

Requesting a variance to allow for a 6' privacy fence to setback zero (0) feet from the corner, (SW 15<sup>th</sup> Avenue side) property line, where code requires a minimum average setback of 3 feet. The linear distance of any one (1) segment of the fence along the property line abutting a street which is parallel to the property line and closer than three (3) feet zero (0) inches from the property line cannot exceed 30% of the length of the property line.

Ms. Linda Morella, applicant, distributed copies of a letter from a neighbor supporting her request.

Ms. Morella described her property and pool area and explained that the old fence had been installed right on her property line, just inside of a three-foot City-owned right of way. After Hurricane Wilma damaged the old fence, she had wanted to install a new fence farther away from her pool, but had been informed by the City that [due to code changes in 2000] the new fence must

be installed three feet away from the City-owned right of way, which would place the fence in her pool.

Mr. Morella explained that there were many fences in her area installed on the property lines and that the fence she would install would improve the looks of the neighborhood. She asked the Board to grant a variance to allow her to put the new fence in the same position as the old fence.

Mr. Carbonell explained the zoning changes that caused the problem. Mr. Stresau felt that the logical answer was to allow Ms. Morella to install the new fence in the same place as the old fence, with a caveat that she add landscaping to the City-owner right of way to mitigate the impact of the fence on the right of way. Mr. Carbonell explained that this mitigation was required by code now.

**Motion** made by Mr. Larson, seconded by Mr. Stresau to approve the variance subject to the installation of landscaping on the City right of way side of the fence in accordance with the requirements of the City landscape plans examiner. In a roll call vote, motion was approved unanimously.

#### **4. APPEAL NO. 06-28**

[Index](#)

**APPLICANT:** Dr. Fred Reineke

**LEGAL:** Lots 20 & 22, BRYAN'S SUBDIVISION, PB 1/29 (Dade), less portions of Lot 20 as more particularly described on the Application for variance on file with the City's Board of Adjustment and Zoning Administrator.

**ZONING:** RAC-AS (Regional Activity Center-Arts and Science)

**STREET:** 237 SW 7<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-13.20.7.a (Street Trees)

Requesting a variance to use ornamental trees in place of shade trees, along W. Las Olas Blvd. and SW 7<sup>th</sup> Avenue, where code requires a maximum of 50% of the plot frontage to be ornamental trees. Shade trees are required for the remainder of the plot frontage.

Mr. Ron Fairchild, project architect, explained that they intended to refurbish an historic structure into a café. He explained the conflict between the ULDR tree requirements and FPL tree restrictions near power lines. Their plan was to use ornamentals instead of shade trees.

Mr. Stresau said he had spoken with the City's landscape plans examiner, who informed him that since the ULDR did not give the staff the authority to waive the requirements for shade trees, the Landscape Department wanted this project to go before the Board of Adjustment. Mr. Stresau said he did not want to see this type of request put to the board again. Mr. Stresau confirmed FPL's position that "you can't plant shade trees underneath power lines, and that's the reason they're here tonight."

Mr. Morris said he had spoken with Dave Gennaro, who informed him that the applicant was required to come to the BOA.

Mr. Stresau explained that generally, ornamentals must be planted more densely [two for one] than shade trees. Ms. Miller agreed to discuss possible solutions to this issue.

Mr. Fairchild informed the Board that the Historic Preservation Board [HPB] had already approved the project and they were up for DRC site plan review now.

Frank Rodriguez, business owner, explained that the HPB had approved the site demolition; they would return to the HPB to get site plan approval after the landscape issue was settled.

Mr. Goldman remarked that the ULDR did specifically state that palms or ornamentals were permitted when physical conditions prevented shade trees; he was surprised the BOA was hearing this as well.

Chair Sweeney proceeded to open the public hearing. There being no one present from the public wishing to address the item, she closed the public hearing and brought the discussion back to the Board.

**Motion** made by Mr. Jordan, seconded by Mr. Willey, to approve the application for the variance. In a roll call vote, motion passed 7 – 0.

## 5. APPEAL NO. 06-29

[Index](#)

**APPLICANT:** A1A Trader, LLC

**LEGAL:** "Lauder del mar", P.B. 7, P. 30, Block 7, Lots, 1-8 & 15

**ZONING:** ABA (A-1-A Beachfront Area)

**STREET:** 321 N. Fort Lauderdale Beach Blvd.

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Sec. 47-20.2. (Parking and loading Zone requirements), and  
Sec. 47-1.15 (Uses within enclosed building)

Requesting a temporary non-conforming use permit to convert an existing hotel rooftop tennis court to a temporary outdoor meeting facility, without providing 24 additional parking spaces, as required by code for this use, and

Requesting an outdoor meeting facility, where code requires such uses to be conducted entirely within a completely enclosed building.

Ms. Debbie Orshefsky, attorney for the owner, explained that this was the Sheraton Yankee Trader property. She explained that Starwood wished to expand their meeting area by enclosing a tennis area in a tent. This would be used only from January 2007 until June 2007 while the owners decided whether/how to redevelop the property. Ms. Orshefsky explained that this would create a need for

24 additional parking spaces on the property, which they could not currently accommodate. Mr. Orshefsky informed the Board that the property already had agreements with nearby parking facilities that would mediate any additional parking needs. Ms. Orshefsky stated the other question was whether the tent met the definition of a “fully enclosed building.”

Ms. Miller and Mr. Morris confirmed that the permit would be valid for one year only; after that, the owner must apply again.

Chair Sweeney proceeded to open the public hearing.

Ms. Judith Scher, president of Birch Crest Condominium, said this project would increase noise and create a real parking problem. Her board members had voted in opposition of the project.

Mr. Mel Rubenstein, board member of Birch Crest Condominium, said they were concerned that the structure might not be temporary, that noise would increase, that the tent structure would not survive a hurricane and that parking was inadequate.

Mr. Jeff Faulkingner, architect for the applicant, stated that the tent was “very substantial” and double-walled, and he was confident that noise would not be a problem.

Mr. Walter Morgan, former owner of the property, said the meeting space was designed to meet a very specific need for visitors who typically did not drive to, but were staying at the hotel.

Ms. Orshefsky said there were noise restrictions to which they would adhere, and the tent would not have a speaker system. She said they would agreed to approval with specific prohibitions or restrictions on outdoor speakers.

Amaury Piedra, general manager, said in response to concerns about music, that he did not anticipate bands playing in the tent at night and did not object to this stipulation.

There being no one else present from the public wishing to address the item, Chair Sweeney closed the public hearing and brought the discussion back to the Board.

Mr. Carbonell stated that the noise had been his only reservation.

Chair Sweeney said they had had problems in the past with this type of request, with the situation not being temporary. She wanted to be sure the applicant understood this.

**Motion** made by Mr. Larson, seconded by Mr. Jordan, to approve the variance for Section 47-1.15, with the condition that there be no bands, DJs, live music, or external speakers, and that the structure be operational only from January 1 through July 1, 2007. In a roll call vote, motion passed 7 – 0.

**Motion** made by Mr. Larson, seconded by Mr. Jordan, to approve the variance for Section 47-20.2. In a roll call vote, motion passed 7 – 0.

**6. APPEAL NO. 06-30**

[Index](#)

**APPLICANT:** Andrew Wright

**LEGAL:** “Coral Ridge Country Club, Addition No. 3”, P.B. 52, P. 14, Block L, lot 2

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

**STREET:** 3010 NE 42<sup>nd</sup> 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 22.8’ front building setback for garage, where Code requires a front setback of 25’.

Mr. Robin deDon, the applicant’s architect, explained that during a spot inspection, they had been informed by the City that the setbacks on which they had based and permitted the plans were wrong. During design, Doug Kurtcock, a member of zoning staff, had informed them that this was a “special district” with setbacks different from typical RS-8. The setbacks he cited were: 25-foot front with the provision for a one-story garage to come within 20 feet; 7.5-foot side, and 25-foot rear.

Mr. Carbonell remarked that the confusion could have arisen because there was a section of the code that applied to other zones allowing one-story garages to have a 20-foot setback. IN RS-8, 25 feet was required.

Chair Sweeney said she had driven by the site and noted that “this sticks out like a sore thumb.” She was also aware that Coral Ridge homeowners association had been adamant about not granting variances to the setback requirements.

Mr. Jerry Squadrito, representative of the homeowner, said he had asked neighbors within 300 feet, and none of them felt there was a problem. Mr. Carbonell felt that the U-shape of the building balanced out the encroachment.

Mr. Stresau said he was “dumbfounded” to see a 22’ 9” setback on the site plan, and this was the same conversation they had had a few months ago, when they “turned Mike Schiff down and told him to tear off about \$25,000 worth of construction.” Mr. Jordan confirmed that according to code, any errors were ultimately the owner’s problem, even if the error was made by the City.

Mr. Larson agreed with Mr. Stresau, and pointed out that the City was making too many mistakes.

Mr. Jordan noted that the front of the house was at 24.85 feet. He suggested they allow the front of the house, and require the owner to “lop off” some of the garage. Mr. Squadrito noted that the garage would no longer accommodate the length of the cars if it were shortened.



**Motion** made by Mr. Stresau, seconded by Mr. Larson, to approve the variance. In a roll call vote, motion failed 1 – 6 with Mr. Goldman, Mr. Jordan, Mr. Larson, Mr. Stresau, Mr. Willey and Chair opposed.

Ms. Miller advised Mr. deDon that there were several avenues of redress he could pursue with his attorney.

Mr. Larson said this was the fourth case of the City's making a mistake that they had seen this year. Mr. Goldman suggested they request that the City Commission and City Manager investigate this to help prevent it from happening again. Mr. Stresau felt the chief building inspector should address the BOA on this. Chair Sweeney was concerned with the errors committed by the zoning department, but felt the architect should have confirmed the new setbacks when Mr. Kurtok had informed him of the difference.

Chair Sweeney wanted to recommend to the City Commission that a "foundation spot survey" be performed. Mr. Morris said that the ULDR did not dictate the performance of spot surveys, the Building Department did, and this might only require a policy change. He agreed to determine who was responsible, but could not guarantee that anyone would address the Board.

Mr. Goldman felt perhaps the planner or zoning officer should be required to provide written confirmation of advice they give.

Mr. Stresau thought the applicant would return at a later date to request a two-inch variance for the garage portion of the house. He asked if the request had been properly advertised for them to reconsider the case, and discuss the point to which the building must be moved back. The Assistant City Attorney said this could be discussed this evening.

**Motion** made by Mr. Stresau, seconded by Mr. Larson, to reconsider. In a roll call vote, motion passed 7 – 0.

**Motion** made by Mr. Carbonell, seconded by Mr. Jordan, to grant a variance allowing a one-story garage to be set back 24.85 feet from the front yard in lieu of the required 25 feet. In a roll call vote, motion passed 7 - 0.

**Report and For the Good of the City**

[Index](#)

There being no further business to come before the Board, the meeting was adjourned at approximately 8:28 p.m.

Chair

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Binni Sweeney

ATTEST:

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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.

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