

Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, September 13, 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>	Cumulative 2006	
		<u>Present</u>	<u>Absent</u>
1. Gus Carbonell	P	7	2
2. Gerald Jordan	P	9	0
3. Don Larson	P	9	0
4. Scott Strawbridge	A	7	2
5. Fred Stresau	P	8	1
6. Birch Willey	P	7	2
7. Binni Sweeney, Chair	P	7	2

Alternates

David Goldman	A
Don Zimmer	A

Staff

Bob Dunckel, Assistant City Attorney
 Don Morris, Planning & Zoning
 Valerie Bohlander, Building Department Director
 Steven Scott, Assistant City Manager
 Curtis Craig, Building Official
 Sandra Goldberg, Recording Secretary

Guests

Nolan Haan	William Mulder
Steve Greene	Gail Brown
Gregg Correll	Jarrett Osborne
Doug Snyder	Gerald Knight
Roberta Reynolds	Johnny Reynolds

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Call to Order

Chair Sweeny 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

Mr. Stresau noted that names of Board members opposing motions should be listed with the roll call votes. Mr. Stresau stated the vote count for Case 06-30 was transposed [it should be 1 – 6]. Also on case 06-30, it should read that the owner would return at a later date to request a 2" variance for the *garage* portion of the house [not the *non-garage* portion]. Mr. Willey also wanted the words "in the tent" removed from the motion on case 06-29.

Motion made by Mr. Jordan and seconded by Mr. Larson to approve the minutes of the August 2006 Board of Adjustment meeting as amended. 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 9th 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.

Mr. Nolan Haan, representing the owner, Alex Glass, explained that several committees were currently working to refine the Sailboat Bend Historic District ordinance to address “a few shortcomings.” Mr. Haan stated that Section 47-24.5.A.3.a was contrary to an historic configuration common in Sailboat Bend, and imposed a restriction on property owners wishing to build on parcels with existing historic structures. Mr. Haan explained that Mr. Glass wanted to move another historic structure onto his lot, which was large enough to accommodate four residences.

Mr. Haan presented photos of both houses to the Board and explained that when the new house was moved to the lot, its orientation and setbacks would be the same as they were in its current location. The house Mr. Glass wished to move was now surrounded by townhouses, and relocating it would put in a more historic context. Mr. Haan informed the Board that the Historic Preservation Board had already approved relocating the house, and the civic association had unanimously voted in favor, and Mr. Haan presented a copy of a letter from the association pursuant to this.

Mr. Haan noted how the application satisfied the criteria for the variance:

- ❖ Special conditions were those imposed by the ordinance itself
- ❖ Parcel was a double lot [atypical in Sailboat Bend] that could easily accommodate the houses
- ❖ Literal interpretation of the ULDR would require Mr. Glass to build an addition on his existing home, or connect the two houses after relocation; both of these would have a deleterious effect on the site
- ❖ The hardship was not self-created
- ❖ The variance would be compatible with the intent of the ULDR and neighboring properties and the neighborhood

Mr. Haan remarked on the extreme measures some owners were taking to rid themselves of historic structures so they could redevelop properties on which they were located, including arson, “demolition by neglect” or illegal demolition, punishable by a small fine.

Chair Sweeney proceeded to open the public hearing.

Mr. Steve Greene, adjacent property owner, was concerned about how close the relocated house would be to his property. He presented photos of his property and Mr. Glass’s property to the Board and noted several areas where Mr. Glass’s house was “in disrepair” and stated Mr. Glass’s money would be better spent refurbishing his existing house. Mr. Greene asked if the

Board did approve the variance, that they would stipulate a 10' side setback must be maintained.

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 confirmed that only a small portion of the home would be within 5 feet of the fence [Mr. Greene's concern].

Mr. Dunckel asked Mr. Morris about the side yard setback matrix in Section 47-5.3.5; he asked what the side yard setback would be if the variance were granted. Mr. Morris said the 5-foot single-family setbacks would apply.

Mr. Stresau thought it odd that Mr. Glass wanted to increase his living space but did not intend to connect the two structures, or locate them close together. Mr. Haan thought that Mr. Glass determined the location for the house based on a 10-foot wall on the property that he wanted to keep the house away from.

Mr. Carbonell felt that Mr. Glass's proposed location for the house would contribute to the neighborhood open space and therefore benefit the neighborhood. Mr. Stresau felt they should require a 10-foot side yard setback [instead of 5 feet]. He felt Mr. Greene had bought his property with the knowledge that there would be no other structure on Mr. Glass's lot unless it was connected to the existing structure.

Mr. Willey wondered why the houses would not be located closer together, and felt the owner might rent out one of the units. He felt this constituted an economic hardship, which the Board could not consider.

Mr. Carbonell noted that the ULDR and the Historic District "clashed" and a variance was the only solution. He felt that decreasing the courtyard between the two homes "may ruin what would be a very nice open space between the two homes." Mr. Larson suggested a compromise of an 8-foot setback.

Motion made by Mr. Larson, seconded by Mr. Stresau, to approve the request, with the condition that there be an 8-foot side yard setback instead of the required 5-foot setback. In a roll call vote, motion was approved 5 – 1 with Mr. Willey opposed.

2. APPEAL NO. 06-33[Index](#)**APPLICANT:** Mars Powerline Limited Partnership, Ltd., an Illinois Limited Partnership**LEGAL:** **Legal Description:** That part of the NW ¼ of Section 15 Township 49 South, Range 43 East, lying West of Seaboard Coast Line Railroad Company (formerly known as Seaboard Air Line Railroad Company) Right-of-Way, more particularly described in the Board of Adjustment Application on file with the Clerk of the Board of Adjustment, Appeal No. 06-33**ZONING:** I (General Industrial)**STREET:** 5300 N.W. 9th Avenue**ADDRESS:** Fort Lauderdale, FL**APPEALING: Sec. 47-7.10 (List of Permitted and Conditional Uses)**

Requesting a use variance to allow the sale of alcoholic beverages in an existing amusement center on property zoned (I) Industrial, where such use is not specifically allowed.

Mr. Jerry Knight, attorney for the applicant, explained that in 2003, the owner and former operator had requested and been granted a use variance for the amusement center [go-cart racing facility]. That operator had subsequently gone out of business and the current operator had resumed the same use since August 2006. Mr. Knight said the new operator had made significant upgrades to the facility to suit older customers, and group customers. As part of this plan, the new operator wanted the ability to sell alcoholic beverages.

Mr. Bill Mulder, general manager and co-owner of Prime Time Amusements/Extreme Indoor Carting, explained changes they had made and said corporate customers had made requests for the alcohol sales. Mr. Mulder presented photos and described the amenities at the facility and explained that it was “not an inexpensive place to come and race” and noted that this helped to discourage a “certain element” from using the facility.

Mr. Mulder explained the measures utilized to ensure that no one who consumed alcohol would be permitted to use the go-carts, including wristbands and breathalyzers. He added that customers were given a safety briefing, and there were at least eight state-approved race marshals on the track at all times.

Mr. Jordan confirmed that Mr. Mulder wanted a full liquor license. Mr. Dunckel clarified that the 2003 variance was granted for “commercial recreation use (indoor motor speedway).”

Mr. Knight explained that the new operators had already had discussions with City Staff regarding their desire to serve alcohol and had obtained an approved “liquor measurement” that concerned distance separation requirements. It was during these discussions with Staff

that they had realized a variance was needed to serve alcohol. Mr. Knight presented letters of support from other businesses in the area.

Mr. Dunckel confirmed with Mr. Mulder that he would not object if the variance was connected to the indoor motor speedway. Mr. Mulder said he would also agree that alcohol sales would not occur outside the hours the cart racing was offered.

Mr. Willey said Mr. Knight must show him "how... that property is unique and you've got to show me some reason not to think that this is economic." Mr. Willey felt Mr. Knight had "slipped up on his due diligence when he accepted this without already having in place the fact that he needed alcohol to make that kind of facility fly in Fort Lauderdale, and that's economic." Mr. Knight noted that he had only met the operators a few weeks ago; he had not personally done the due diligence.

Mr. Knight felt the typical hardship standard for a use variance was "not as applicable" as it would be if they were requesting another type of variance. He said their application addressed the criteria within this context. Mr. Dunckel advised the Board that they must apply the criteria, and they should exercise even tighter scrutiny when considering a use variance than on an area or distance variance.

Mr. Stresau noted there was a difference in the property's address on the survey and the application. Mr. Knight noted that the application used the building's address, but the variance only applied to the south 80,000 square feet of the building at that address, bays 5 and 6.

Chair Sweeney proceeded to open the public hearing.

Ms. Gail Brown, representative of the management company for the building, said the owner and other tenants agreed the alcohol sales would be a "good addition" to Prime Time Amusements/Extreme Indoor Carting.

Mr. Jarrett Osborne said the co-owner, David Goldfarb, was responsible and had integrity, and this and his other establishments were run professionally.

Mr. Gregg Correll, neighboring business owner, said the operators had done an "A+ job" at this building, and felt this would be a very good thing for its prospective customers.

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. Dunckel stated conditions he felt should be attached to the variance: a breathalyzer test for anyone suspected of consuming alcohol on or off the premises; a green wrist band allowing

customers to drive and a red wristband prohibiting them from driving; the alcohol sales' connection to the indoor speedway use; the alcohol sale hours limited to the speedway hours of operation. Mr. Knight stipulated to all of these conditions.

Chair Sweeney felt the facility looked "fantastic" but felt the request did not meet the criteria; she thought the hardship was economic. She noted that she would feel personally responsible if there were an alcohol-related accident at the speedway.

Mr. Jordan agreed that it did not meet all of the criteria, but felt they should be flexible to a business that could contribute to the City's tax base.

Mr. Mulder assured Chair Sweeney that safety was their top concern and described how they could exercise control over the carts to ensure rider safety. He noted that all riders signed waivers as well.

Mr. Knight was concerned about how he felt the Board was leaning and Mr. Jordan said they could poll the Board. Mr. Willey and Chair Sweeney said they would both vote "no." Mr. Knight conferred with Mr. Mulder and requested a deferral to the October meeting.

Motion made by Mr. Stresau, seconded by Mr. Jordan, to defer this case to the Board's October meeting. In a voice vote, the motion was approved unanimously.

3. APPEAL NO. 06-34

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APPLICANT: Lighthouse of Faith Ministry, Inc.

LEGAL: "Hoosier Heights", P.B. 26, P. 47, Block 1, Lots 3 & 4

ZONING: CB (Community Business)

STREET: 2395 Davie Blvd.

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-25.3.A.3.d.ii (Parking Restrictions)

Requesting a variance to allow a 5' landscape strip along the north property line, where code requires that no parking shall be located within 12' of the property line within the rear area required by the district in which the proposed non-residential use is located, when such yard is contiguous to residential property.

Ms. Roberta Reynolds, Pastor of Lighthouse of Faith, explained that they had purchased the property two years ago and it was zoned for a church. She stated they needed the variance to accommodate additional parking. Mr. Johnny Reynolds said he had done work on the property and they needed to get the property to the point where it was usable.

Mr. Morris informed the Board that final DRC approval was the only item still outstanding at the property.

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. Jordan said the property looked nice and he had no objection if the neighbors did not.

Motion made by Mr. Larson, seconded by Mr. Carbonell, to approve. In a roll call vote, motion was approved 6 – 1.

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Mr. Morris said Building Department Director Valerie Bohlander and Assistant City Manager Steven Scott were present to discuss spot survey requirements. Mr. Morris explained that the City had piggy-backed the spot survey requirement onto the FEMA elevation requirement. The survey showed the elevation certificate and the setbacks. The spot survey was done through the Florida Building Code, enabling the building official to require structure location verification. Mr. Morris said the surveys were not done earlier because there had been cases where form boards were moved after the survey. Mr. Morris noted that tie beams should never be poured until the survey was approved, so any builder who requested a variance and stated that tie beams were already poured and it would be very costly to demolish and re-pour them should know better. Mr. Morris quoted from the Code section regarding any construction undertaken prior to the issuance of the approved elevation certificate, “any work undertaken prior to the submission of certification shall be the permit holder’s risk.”

Mr. Carbonell felt they might do the development community a favor by requiring a survey some time prior to tie beam inspection, as many other cities did. Mr. Carbonell stated from experience that there were many incompetent surveyors working in the area. Chair Sweeney felt this would put additional strain on an already seriously overtaxed Building Department and said “people have to start taking some responsibility for what they do.” Mr. Carbonell felt this was not working and needed to be fixed.

Mr. Bohlander informed the Board that they were considering ways to streamline the spot survey process. She felt the current process was sufficient, and perhaps some additional contractor education was in order. Mr. Stresau said that the Board had discussed ways to “short circuit mistakes.” He felt the Building Department must get a handle on this problem. Mr. Stresau listed several projects for which the Board had heard variance requests, some of which were needed due to mistakes made by City Staff.

Mr. Morris clarified that setbacks were reviewed in Zoning, so any mistakes regarding the setbacks were made by them, not by the Building Department. He said they were considering ways to improve the system and catch errors.

Mr. Larson asked if it would be possible to require a spot survey immediately after the slab was poured. Mr. Curtis Craig, Building Official, stated this was when they required the spot survey, and this spot survey must be at the job when the tie beam inspection was scheduled.

Mr. Carbonell was surprised the Board did not see even more of these cases. He felt the only way to resolve the issue was with a form board survey, followed by a spot survey.

Ms. Bohlander said they would consider ways to make the spot survey requirement more noticeable.

Mr. Stresau noted the case last month of the woman who had her fence fall down and was told by the Building Department that new code requirements dictated a different setback, which would have put the fence in the woman's pool. He felt that instead of requiring a variance, the Building Department should have advised the woman to put the fence back in the spot where the old one had been. Mr. Morris said in a situation such as this, a variance was required by code. Mr. Stresau felt they should therefore consider changing the code to allow Staff to exercise this kind of discretion administratively.

Mr. Jordan noted that the permitting process had improved and thanked Ms. Bohlander.

There being no further business to come before the Board, the meeting was adjourned at 8:35 p.m.

Chair

Binni Sweeney

ATTEST:

Sandra Goldberg For Jamie Opperee,
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.
