

**Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, June 13, 2007 – 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 2007	
		<u>Present</u>	<u>Absent</u>
1. Gus Carbonell	P	3	2
2. Gerald Jordan	P	5	0
3. Don Larson	P	5	0
4. Scott Strawbridge, Chair	P	4	1
5. Fred Stresau	P	5	0
6. Birch Willey	P	5	0

<u>Alternates</u>			
David Goldman	A	4	1
Kenneth Strand	P	5	0
Bruce Weihe	P	1	0
Diane Waterous Centorino	P	1	0

Staff
 Bob Dunckel, Assistant City Attorney
 Don Morris, Planning & Zoning
 Travis Woods, Recording Secretary

<u>Guests</u>	
William Cantrell	Gary Peterson
William Burley	William Johnson
Katherine Holtzman	Jim Brown
Harold Lovell	

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Report and for the Good of the City

Call to Order

Mr. Larson called the meeting to order at 6:30 p.m.

Elections of Chair and Vice Chair

Mr. Willey nominated Mr. Strawbridge as Chair, seconded by Mr. Stresau. Board unanimously approved.

Mr. Jordan nominated Mr. Larson as Vice Chair, seconded by Mr. Carbonell. Board unanimously approved.

Chair Strawbridge explained the function of the Board of Adjustment, and the procedure that would be followed during the meeting.

Approval of Minutes

Mr. Stresau said on page 2, the southeast corner referred to should be the southwest corner.

Motion made by Mr. Larson and seconded by Mr. Willey, to approve the minutes of the May 2007 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.

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1. APPEAL NO. 07-15 *(Deferred from February 14, 2007 meeting)*

APPLICANT: Ruach, Inc.

LEGAL: "Galt Ocean Mile Resubdivision", P.B. 38, P. 18, Block 16, Lot 9

ZONING: CB (Community Business)

STREET: 3558 N. Ocean Boulevard

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 5-27(b) (Distances of establishments from Church or School)

Requesting a special exception to allow alcohol sales that is incidental to the sale of food in a restaurant that is within 232 feet from one place of worship (Chabad Lubavitch of Fort Lauderdale), and 242 feet from another place of worship (Sephardic Synagogue), where Code requires a separation of 500 feet.

Chair Strawbridge announced that the applicant had requested a 60-day continuance.

2. APPEAL NO. 07-18

APPLICANT: William & Linda Burley

LEGAL: "Rio Vista Isles", P.B. 8, P. 7, Block 12, Lot 1

ZONING: RS-4.4 (Residential Single Family/Low Density District)

STREET: 1501 SE 11th Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.30 (Table of dimensional requirements for the RS.4.4 district)

Requesting a variance to allow 243.6 square foot second floor addition to an existing two-story single-family structure with a 10 foot 7.2 inches waterway setback, where Code requires a minimum 25-foot waterway setback.

Mr. William Cantrell, representative of the owners, explained that the corner-lot house had been built in the early 1980s with a 10-foot setback. The Burleys intended to refurbish the home, which they felt was outdated, and "less than attractive." In October 2006, the Burleys moved in, and noticed that the rear pool deck above the seawall had serious settlement that had occurred since their purchase of the home.

Mr. Cantrell explained to Chair Strawbridge that the Burleys had encountered several unexpected events with the home, and wanted to "put a 243-square foot master bedroom addition onto an already 2,240-square foot house that already had 85% of the second floor built. This was basically their only luxury that they were asking for because of this chain of events."

Mr. Cantrell explained that the Burleys had replaced the home's drywall and roof, and replaced the windows with impact-resistant ones. After Hurricane Wilma, they wished to increase the size of the master bedroom. Mr. Cantrell said, "All they're really trying to get for themselves... is this 243-square foot addition which actually occupies the existing foundation." Mr. Cantrell said, "If the City enforces a 25-foot setback, it makes a 50-foot lot basically unbuildable; it cuts their lot exactly in half." Mr. Cantrell noted that this "does not offer the Burleys the same opportunities as anybody else on a 50-foot wide lot." He stressed that the Burleys did not wish to enlarge the existing building footprint. Mr. Cantrell stated there was an existing shed room over the family room where the addition would go.

Mr. Gary Peterson, representative of the owner, confirmed the roof location, and said the City stated the property had "three front yards." Mr. Morris said that because the property was on the waterway, regardless of the yard, there must be a 25-foot setback.

Mr. Cantrell read from Section 47-3.2 regarding non-conforming structures, which stated that where a foundation existed for additional floors, these may be added, provided the total height did not exceed the total allowed in the zoning district and all other provisions were met. The Burleys had assumed that this paragraph would allow their construction. Mr. Cantrell was basing this upon his belief that the Zoning Department had determined the house had three front yards.

Mr. Dunckel said this was a waterfront lot with the 25-foot setback requirement. He saw no construction under the code that would yield three front yards for the lot.

Mr. Cantrell stated the western elevation where the addition would be located was 125 feet from the neighboring property and would therefore have no negative effect on it.

Mr. Carbonell said he had designed this home in the 1980s when the setback was 10 feet. Mr. Dunckel explained to Mr. Carbonell that the waterfront setback requirement covered the "front, side, rear and corner." Mr. Carbonell said the section Mr. Cantrell quoted seemed to grant relief for remodeling existing structures. Chair Strawbridge said if this were the case, the variance was not required.

Mr. Dunckel was not sure what the ordinance was addressing with the waterfront lot 25-foot setback requirement. He explained that "corner yard" applied to the intersection of two streets, not two waterways. Mr. Dunckel stated he wanted to examine the ordinance that adopted the 25-foot setback and also would like to see staff consider and interpret this. Mr. Dunckel said the owner had raised an interpretation question, which had not been noticed for this meeting, and he wanted staff to have time to address this.

Mr. Morris said he had not heard this argument from the applicant before.

Mr. Stresau said he had noticed that the trusses had been delivered to the house, and he wondered why they would move ahead prior to obtaining a building permit. Mr. Cantrell said there had been a backlog when the trusses were ordered and they thought that after addressing comments, they would be issued a building permit. At a meeting between the architect and the Zoning Department on May 8, staff had recommended applying to the Board of Adjustment. Mr. Cantrell confirmed that no exterior work had begun.

Chair Strawbridge advised Mr. Cantrell it might behoove him to allow the City Attorney to research this further.

Mr. Dunckel said Mr. Morris had informed him that the definition of "yard, corner" included corners created by the intersection of waterways as well as streets. This was therefore a corner yard, and the section cited by Mr. Cantrell concerned side yards, so it did not apply. He advised the Board to consider only the merits of the variance request.

Mr. Weihe felt the 25-foot setback requirement rendered this particular lot unusable, making the property unique, which could work in favor of a variance approval.

Chair Strawbridge opened the public hearing.

Mr. William Johnson, neighbor, said he feared the view from the second floor of his home might be blocked by this addition. He presented photos of the view from his home. He said he had viewed the architect's renderings, but had been unable to locate any engineering or structural drawings. Mr. Johnson said he had attended the meeting to ensure his view was maintained. Mr. Johnson did not believe the applicant fulfilled the requirements for a variance.

Mr. Cantrell confirmed for Mr. Larson that the addition would not exceed the existing foundation, and the roofline height would be the same as well. Mr. Cantrell said the rear yard would still be within the 25-foot setback. Chair Strawbridge explained to Mr. Johnson that the setback requirement affected the Burleys ability to build in the “east-west direction.” The proposed wall would be closer, and perpendicular to Mr. Johnson’s view.

There being no other members of the public wishing to address this item, Chair Strawbridge closed the public hearing and brought the discussion back to the Board.

Mr. Stresau felt the Board had usually supported expansion of an existing building that was built to required setbacks. Since that was the case here. Mr. Stresau said he supported this application. He noted that following the new setback requirements would lead to construction of a house only 15 feet wide. Mr. Stresau was concerned that the property had no landscaping, and wanted assurance that landscaping would be created to soften the impact on the neighborhood. Mr. Cantrell said the landscaping had been removed for construction purposes only and would be replaced.

Motion made by Mr. Jordan, seconded by Mr. Larson, to approve. In a roll call vote, Board approved 7 – 0.

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3. APPEAL NO. 07-19

APPLICANT: Nicholas G. & Sharron Navarro

LEGAL: “Breakwater”, P.B. 42, P. 19, Block 2, Lot 11

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

STREET: 2604 SE 21st Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.31 (Table of dimensional requirements for the RS-8 district)

Requesting a variance to permit the construction of a Trellis with a Zero-foot rear yard, where Code requires a minimum 15-foot rear yard.

Mr. Jim Brown, representative of the owners, said the trellis was design to “overcome ...a number of hardships,” and with knowledge of the 15-foot easement on the south side of the property.

Mr. Brown stated the owners had demolished a cottage on the property and built the existing house, with an approved 15x60-foot tile deck on the south end of the property. This deck abutted the property line. When the patio was built, the owners assumed they would be permitted to build an awning over the deck for shade, but had been informed by the designer that this was not possible. The owners had contacted Mr. Brown, and he had determined that a free-standing solution would be allowed, but was not appropriate due to high wind and heat in the area.

Mr. Brown said that all of the adjacent properties had patios with covered awnings up to their property lines, and the Navarros felt they were being denied this. Mr. Brown said

he felt it advisable to not use a free-standing structure, but to “over-engineer” an attached structure covering the entire patio, and he had created a design for this. Mr. Brown said this would not interfere with anyone’s view, and would help alleviate the house’s heat load.

Chair Strawbridge said the owners had obtained a variance when they purchased the house to build the garage 12.2 feet into the front yard setback; now they wanted to go 15 feet in the rear yard. Mr. Dunckel did not believe there had ever been a provision in the code for an awning at a residence to go to the property line. This meant that all of the awnings to which Mr. Brown referred existed without permits. He noted that this could only be viewed from the inlet, not from the street.

Chair Strawbridge opened the public hearing.

Mr. Harold Lovell, neighbor, said he supported the Navarro’s request. He said they had spoken to the neighbors and no one had objected.

There being no other members of the public wishing to address this item, Chair Strawbridge closed the public hearing and brought the discussion back to the Board.

Mr. Dunckel remarked that usually the approval of a variance would not necessarily set a precedent, but he noted that it could set a precedent for “similarly-situated properties.” Mr. Dunckel pointed out the long line of properties along the inlet that could appear at a later time to request a variance and would invariably remind the Board of the granting of the Navarros’ variance.

Mr. Carbonell noted that this lot and a few across the street were not as deep as most in this subdivision were. Mr. Brown said, “This is a unique block of 45-foot lots.” Mr. Dunckel corrected that the lots were 84.88 feet deep on the plat and survey.

Mr. Willey and Mr. Jordan agreed that if other property owners built similar awnings over their back patios this would not be detrimental to the neighborhood. Chair Strawbridge was concerned that views could be blocked if the neighbors all followed the Navarro’s example.

Motion made by Mr. Larson, seconded by Mr. Jordan, to approve. In a roll call vote, Board approved 7 – 0.

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There being no further business to come before the Board, the meeting was adjourned at 7:43 p.m.

Chair

Scott Strawbridge

ATTEST:

Travis Woods 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.
