

**Board of Adjustment Meeting  
City of Fort Lauderdale  
Wednesday, July 11, 2007 – 6:30 P.M.  
City Hall City Commission Chambers – 1st Floor  
100 North Andrews Avenue  
Fort Lauderdale, Florida**

<b><u>Board Members</u></b>	<b><u>Attendance</u></b>	<b>Cumulative Attendance</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
1. Gus Carbonell	P	4	2
2. Gerald Jordan	P	6	0
3. Don Larson	P	6	0
4. Scott Strawbridge, Chair	P	5	1
5. Fred Stresau	P	6	0
6. Birch Willey	P	6	0
7. David Goldman	P	5	1
<b><u>Alternates</u></b>			
Kenneth Strand	A	5	1
Bruce Weihe	P	2	0
Diane Waterous Centorino	P	2	0

**Staff**

Bob Dunckel, Assistant City Attorney  
Yvonne Blackman, Board Liaison  
Don Morris, Planning & Zoning Administrator  
Travis Woods, Recording Secretary

**Guests**

Dana Dickinson	Randall Brown
Don Lunney	Gerald Rappellets
John Payne	Steve Savor
Bob Erring	William Spiker
Art Cantrell	Elizabeth Tashrow

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## **Report and for the Good of the City**

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### **Call to Order**

Chair Strawbridge called the meeting to order at 6:34 p.m. and introduced the Board members. He described the functions of the Board and procedures they would use for the meeting. Chair Strawbridge called the respondents' attention to the list of criteria from City code for granting a variance. He noted that variances would be granted for hardships attributable to a property, not a property owner, which were therefore unique to the land.

Chair Strawbridge added that economic hardships generally did not qualify for a variance, and that applicants were not entitled to the highest and best use of their properties, but were entitled to reasonable use of their properties. Most importantly, Chair Strawbridge explained, in order to be granted the requested relief, the applicant must receive a vote from the Board of a majority plus one, or five votes.

Board members disclosed communications they had regarding agenda items.

Chair Strawbridge confirmed that there were no sign issues regarding this evening's agenda items.

### **Approval of Minutes**

**Motion** made by Mr. Wiley and seconded by Mr. Stresau, to approve the minutes of the June 2007 Board of Adjustment meeting. Board unanimously approved.

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

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#### **1. APPEAL NO. 07-14** *(Deferred from May 9, 2007 Meeting)*

**APPLICANT:** Dana R. Dickinson  
**LEGAL:** "Victoria Highlands AMD Plat", 15-9 B PT, Blk 1, F/P/A Lot 10 W 20 of S 110, 11 S, 110 BLK 3 Victoria Highlands  
**ZONING:** RS-8 (Residential Single Family Low Medium Density District)  
**STREET:** 716 NE 19<sup>th</sup> Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 47-2.2.Q.3 (Sight triangle)**

Requesting a variance to allow a 6-foot privacy fence to encroach into the required 25 foot sight triangle at 19<sup>th</sup> Avenue and NE 7<sup>th</sup> Court, up to property line where Code requires said fence not to exceed 2.5 feet in height.

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

Requesting a variance to allow a 6 foot privacy fence located in the sight triangle to set back 0 feet, where Code requires a 3 foot minimum setback.

Mr. Morris reminded the Board that the last time Ms. Dickinson had appeared, the Board had requested that the City engineer's office look at the sight triangle and determine if there were issues with the fence in this location. Mr. Morris had met with a representative of the engineering department who had confirmed with Peter Partington, the City engineer, that they had no objection to the fence's being sited in a 15-foot sight triangle as opposed to a 25-foot sight triangle. He had provided the Board with a copy of an email pursuant to this determination.

Mr. Morris said there had also been some confusion about which survey pertained to this property. The City had determined during the application process that the fence had been set back from the property line. Ms. Dickinson had the property re-surveyed and this new survey had been included as part of the Board's packet this evening, as well as some letters from neighbors regarding the property.

Ms. Dana Dickinson, respondent, explained that she had bought the property in 2001 in large part because of this privacy fence and the swimming pool area. She stated the pool and fence were properly permitted and built in 1986 by the previous owner, adhering to all existing codes. In 2005, the fence sustained serious damage during hurricane Wilma, and most of the fence had been repaired to meet code, with the exception of the southeast corner, which was rebuilt in its exact previous location. This section of the fence did not meet current code.

Ms. Dickinson explained that it would not be practical for the repaired fence to meet current code, because this would mean that the fence would be installed within the pool. She stated the paver deck and mature landscaping area would need to be eliminated, and pool plumbing, lighting, and sprinkler systems would be affected.

Ms. Dickinson drew the Board's attention to photos of the yard where she had indicated where the fence would cross into the pool. Ms. Dickinson said she has obtained over 20 letters of consent from neighbors, agreeing that the fence presented no safety hazard to the neighborhood, and that it was aesthetically pleasing.

Mr. Stresau said he had not been able to find where in the code it stated that if the City engineer found there was no safety hazard and advised that the sight triangle could be reduced from 25 to 15 feet, the variance request must still be presented to the Board. Mr. Morris referred to section 47-2.2.Q.3 regarding sight triangles, which allowed the

City engineer to grant relief from the 25 foot sight triangle requirement for the purpose of maintaining mature existing landscaping. The issue in this case referred to a structure [the fence] not to landscaping. Mr. Morris said the City engineer had acted to advise the Board in this matter, not to make the decision.

Chair Strawbridge opened the public hearing. There being no one wishing to speak regarding this item, Chair Strawbridge closed the public hearing and brought the discussion back to the Board.

**Motion** made by Mr. Stresau, seconded by Mr. Jordan, to approve the application with the City engineer's assessment that the 15-foot sight triangle was sufficient.

Chair Strawbridge confirmed with Mr. Dunckel that both requests could be covered by one motion.

The Board and Mr. Morris agreed that the 15-foot sight triangle would be very close, but Mr. Morris agreed they would meet with Miss Dickinson after the hearing to discuss this.

Mr. Willey said he wanted separate votes for the two appeals, because he felt there were other possible ways to meet the sight triangle.

Mr. Stresau noted that the pool ordinance required a fence to be at 48 inches. He agreed to amend his motion, but Mr. Jordan [the seconder] refused.

In a roll call vote, **Board approved 7 – 0.**

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## **2. APPEAL NO. 07-20**

**APPLICANT:** William P. & Kathryn S. Spiker  
**LEGAL:** "Progresso", P.B. 2, P. 45, Block 45, Lot 24  
**ZONING:** RS-8 (Residential Single Family Low Medium Density District)  
**STREET:** 1546 NE 17<sup>th</sup> Way  
**ADDRESS:** Fort Lauderdale, FL

### **APPEALING: Section 47-19.5.B (Fences, walls and hedges)**

Requesting a variance to replace a 6 foot wood fence to be set back 8 inches from the northeast 16<sup>th</sup> Street property line, where Code requires a minimum average setback of 3 feet from the street property line. No more than 30% of the length of the fence shall be setback less than 3 feet.

Mr. Bob Erring, representative of the fence company, explained that the fence was core drilled into a concrete pool slab and there was no loss of green space. Moving the fence would require more concrete and a loss of green space. Mr. Erring explained that

the fence had been destroyed by hurricane Wilma, and had been rebuilt in the spot it had occupied for 30 years. Mr. Erring stated the fence did not block any traffic views, and relocating it would require moving the pool pump, plumbing and electric.

Mr. William Spiker, the applicant, informed Chair Strawbridge that the original fence had been installed by the previous owner with a permit. Mr. Larson noted that there was greenery planted in front of the fence, which would grow back into a "green wall."

Mr. Carbonell wanted to ensure that the hedge was maintained in front of the fence as a condition of the variance.

Chair Strawbridge opened the public hearing.

Mr. Spiker confirmed for Chair Strawbridge that the fence had already been built with a permit, and the code problem had been noticed on final inspection. Mr. Morris confirmed that fence permits were stamped to indicate there was a three-foot minimum setback requirement. Mr. Stresau remarked there was no way that fence could have met the current code because it exceeded 30 feet on a right-of-way line. Therefore, the permit had been issued in error.

Chair Strawbridge noted Mr. Erring was a fence contractor with whom he was familiar and who he believed should be familiar with the City's codes, and warned him not to return to request any more variances on behalf of his clients.

**Motion** made by Mr. Stresau, seconded by Mr. Larson, to approve, with the provision that Mr. Spiker establish and maintain the hedge on the outside of the fence. In a roll call vote, **Board approved 7 – 0.**

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### **3. APPEAL NO. 07-21**

**APPLICANT:** Arthur Bernard Cantrell & Randall Brown  
**LEGAL:** "Stratoliner Estates", P.B. 39, P. 22, Lot 17  
**COUNTY**  
**ZONING:** Broward County Code RS-5 (One-Family detached dwelling district)  
**STREET:** 2250 SW 30<sup>th</sup> Terrace  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Broward County Code Sec. 39-275(5)(b) (Swimming pools and spas)

Requesting a variance to allow a swimming pool to set back 8 feet from the south corner property line (SW 22<sup>nd</sup> Court), where Code requires swimming pools to be permitted only in the rear and side yards not abutting a street, unless pool is set back 15 feet from the street property line.

Mr. Art Cantrell, applicant, distributed a drawing of a landscape plan to the Board. He stated the property was unique, and there was only one spot on which a pool could be

located due to the shape of the property and the presence of plumbing and electric. Mr. Cantrell stated the neighbor whose property abutted theirs was present this evening and supported their request. Mr. Cantrell explained that they wanted the pool for personal enjoyment, and also as an enhancement to the property and the neighborhood. Mr. Cantrell described the work they had already performed in order to accommodate the pool, including relocating the septic drain field.

Mr. Morris informed Chair Strawbridge that Fort Lauderdale code required that a pool be placed five feet from the property line in a comparable zoning district. Mr. Morris explained that they had been working to incorporate this area into the City's code, but had not provided residents with code regarding pool locations. Therefore, when the new code requirements were written, unless the neighborhood decided during the public hearing process they wanted to change this, it would not change with the new code.

Mr. Stresau said on the previous day, the City Commission had stated that the zoning category could not be tailored for specific neighborhoods. Mr. Morris said the difference here was that there was an existing annexation agreement in which the City had agreed to consider and write special zoning to reflect the unique characteristics of this neighborhood.

Mr. Goldman noted that current code determined the pool must be setback 15 feet and asked if it would be possible to resituate the pool to comply with that requirement. Mr. Randall Brown, applicant, explained that there were electrical lines on the north side of the property they that would be in the way. If they moved far enough away from the electric lines, there would not be sufficient space to fit a pool.

Mr. Brown explained how they had worked through the pool and fence permitting processes to comply with all of the City's requests regarding where a pool must be sited on the property. He stated the realtor and the fencing and pool contractors all believed the home to be governed by Fort Lauderdale code requirements. Mr. Cantrell presented a list of signatures from 20 neighbors who supported their application.

Mr. Willey confirmed with Mr. Morris that the pool currently required a variance from County code requirements. If the property were relocated in Victoria Park, it would not require a variance.

Mr. Jordan felt the pool was simply too large, and suggested installing a plunge pool. He felt the Board was setting a bad precedent. Mr. Cantrell explained why he did not want to locate the pool in another area on the property.

Mr. Carbonell noted that this would meet Fort Lauderdale code, and he felt the variance was reasonable.

Chair Strawbridge opened the public hearing.

Ms. Elizabeth Tashrow, neighbor, said she had no objection to the fence or pool, and she and all the neighbors supported this request.

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

**Motion** made by Mr. Carbonell, seconded by Mr. Willey to approve the variance as requested. In a roll call vote, **Board approved 7 – 0.**

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**4. APPEAL NO. 07-25**

**APPLICANT:** Steve Savor  
**LEGAL:** "Stilwell Isle", P.B. 15, P. 34, Block 1, Lot 17  
**ZONING:** RS-4.4 (Residential Single Family/Low Density District)  
**STREET:** 600/616 Isle of Palms Drive  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-5.30 (Minimum Rear Yard for RS-4.4 property abutting a waterway)**

Requesting a variance to allow a five-foot encroachment (67.5 sq. ft.) into the 25-foot rear yard requirement, as measured from the "wetface," to complete construction of a guest room in accordance with issued building permits.

Mr. Don Lunney, attorney for the applicant, explained Mr. Savor owned the two adjoining lots, and his existing home was on lot 16. When Mr. Savor wanted to build the addition, the City required him to record a unity of title for the two lots. Mr. Lunney pointed out that the architect had designed the addition to have a setback identical to the existing home. These plans had been reviewed and approved by the City, and building permits had been issued.

Mr. Lunney continued that upon inspection, the City admitted they had made a mistake and that the rear yard requirement as measured from the wet face of the seawall should be 25 feet. Mr. Lunney indicated a small section of the property which encroached into the rear yard area, and explained that in order to comply, the owner would be forced to break up the slab, remove vertical pilings, cut the grade beams and rebuild.

Regarding the criteria for a variance, Mr. Lunney explained that the special circumstances for this property included the fact that in this part of the City, the waterway intruded five feet onto the lot, making the rear five feet of the lot submerged. When the rear yard area was measured from the wet face of the seawall, five feet was therefore lost.

Mr. Lunney stated that the canal here was wider than all other canals in this district. Mr. Lunney said he had gone to the City to research as-built surveys for homes recently constructed on the south side of Las Olas within this RS-4.4 area. He had found two streets where lot lines were within six inches of the seawall. Mr. Lunney provided this information to Mr. Morris as evidence. Mr. Lunney believed this was a marked difference from other properties within the zoning district and they therefore satisfied criterion B.

Regarding the criterion that the literal application of law would deprive the applicant of property rights enjoyed by other owners in the area, Mr. Lunney noted that there were other homes in the area with less than the required yards.

Mr. Lunney stated the hardship was not self-created and Mr. Savor had not disregarded the law. The hardship had resulted from the fact that the property was submerged for the last five feet, which was not shown on the plat. Mr. Savor had done exactly what a responsible property owner should do in filing plans for the City's review.

Mr. Lunney reminded the Board that letters of support had been included in their packet of backup materials.

Mr. Lunney explained that Mr. Payne, the architect, had asked him to make clear that the columns, the walls, and decking for the slab on the second floor had been completed before they had been forced to stop construction.

Mr. Carbonell asked if a new dock or seawall was part of the new construction. Mr. Lunney explained that there was a new eight foot-wide concrete dock. Mr. Carbonell pointed out that if they added a vertical face to the dock, the wet face would be moved to where it belonged. Mr. Lunney said they had discussed this, but he felt it very unlikely that the Army Corps of Engineers would approve this. Mr. Carbonell pointed out that this made it appear that the lot had a larger rear yard. He felt the large courtyard mitigated the impact of the small portion that intruded into the setback.

Mr. Stresau asked Mr. Payne if the existing house on lot 16 had an addition, because the walls of that house were only 20 feet from the wet face. Mr. Payne informed him that this entire house was built new in 1989. Mr. Stresau noted that back in the 50s and 60s, the building department measured to property lines, not seawall wet face. Over the course of the years, this had been revised to the wet face of the seawall. Mr. Payne said it boiled down to a determination of were the water body stopped.

Mr. Larson was concerned that this had been missed during the plan creation and approval by the architect and by the City. Mr. Payne said he had relied on the fact that the original house had been built 25 feet from the property line. Mr. Payne pointed out there was also an inconsistency in the definition of "setback."

Mr. Jordan felt that every contractor and architect should know that there was a 25-foot requirement for rear yards, and this should have raised a red flag. He reminded Mr. Payne that the code specifically stated if the City made a mistake it was the contractor's responsibility to make the right. Mr. Jordan noted that he would only be in favor of this particular variance because the encroachment "doesn't eat up a lot of space."

Chair Strawbridge asked if, during expedited plan review, the outside consultants reviewed the zoning. Mr. Morris informed him that the City had two plans examiners who formerly worked in the City Zoning Department. Mr. Morris said he understood how the plans reviewers could miss this because the plan showed a 25-foot setback but this was from the property line, not the wet face.

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



Mr. Larson referred to the letters included in their packet, and noted that several of the letters were opposed to the request. Mr. Lunney said they were unaware anyone had voiced any concerns.

**Motion** made by Mr. Stresau, seconded by Mr. Willey, to approve the application. In a roll call vote, **Board approved 6 – 1** with Mr. Larson opposed.

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### **5. APPEAL NO. 07-24**

**APPLICANT:** Steve Savor  
**LEGAL:** "Stilwell Isle", P.B. 15, P. 34, Block 1, Lot 17  
**ZONING:** RS-4.4 (Residential Single Family/Low Density District)  
**STREET:** 600/616 Isle of Palms Drive  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Appealing an interpretation made by a zoning official with regard to (A) Sec. 47-2.2.S (Measurements; Yard); (B) Sec. 47-5.30, Minimum Rear Yard; and (C) Sec. 47-35.1 (Definitions; "Abut") as (A), (B) and (C) pertain to the minimum rear yard requirements for an RS-4.4 property abutting a waterway.

The applicant withdrew this application.

**Motion** made by Mr. Carbonell, seconded by Mr. Willey, to withdraw item 5. In a voice vote, **Board unanimously approved.**

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Mr. Stresau referred to the permit documents for the last case and noted that the reviewer in this case was very experienced and this was therefore a "straight, honest mistake."

Mr. Larson felt that applicants should bring plans with them to show they had been approved by the Building Department. Chair Strawbridge said there had been policy regarding this, and several cases had been deferred to allow the applicant to return with plans.

Mr. Larson pointed out that three people had made errors in this case: the Building Department, the architect, and the builder, and someone along the line should have picked up on the error. Mr. Carbonell felt that most contractors relied on architects regarding zoning codes in different cities.

There being no further business to come before the Board, the meeting was adjourned at 8:19 p.m.

Chair

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Scott Strawbridge

ATTEST:

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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.

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