

**Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, August 8, 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 Attendance	
		<u>Present</u>	<u>Absent</u>
1. Scott Strawbridge, Chair	A	5	2
2. Don Larson, Vice Chair	P	7	0
3. Gus Carbonell	P	5	2
4. Gerald Jordan	P	7	0
5. Fred Stresau	A	6	1
6. Birch Willey	P	7	0
7. David Goldman	P	6	1

<u>Alternates</u>			
Kenneth Strand	A	5	2
Bruce Weihe	P	3	0
Diane Waterous Centorino	A	2	1

Staff
 Bob Dunckel, Assistant City Attorney
 Yvonne Blackman, Secretary
 Don Morris, Board Liaison
 Alexandra Grant, Recording Secretary

Guests

Jeff Ostrow	Michael Madfis
Michael Sears	Ray Doumar
Monte Greenberg	Harold Fowler
J.D. Camp	Pamela Adler
Edward Cannatelli	Tim Smith

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For the Good of the City

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Call to Order

Vice Chair Larson called the meeting to order at 6:33 p.m. He stated five positive votes for required for an item to be approved, and announced that the Board was one member short this evening. He advised any applicants worried they could obtain five positive votes to request a deferral.

Vice Chair Larson introduced the Board members. He described the functions of the Board and procedures they would use for the meeting. Vice Chair Larson called the respondents' attention to the list of criteria from City code for granting a variance.

Board members disclosed communications they had regarding agenda items.

Vice Chair Larson announced there were no sign issues for any case.

Approval of Minutes

Motion made by Mr. Willey and seconded by Mr. Jordan, to approve the minutes of the July 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. 07-15** (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.

Mr. Morris informed Vice Chair Larsen that the applicant had not appeared this evening. If the Board decided to defer the item, he asked that they defer it time certain. Mr. Morris said some Board members probably no longer had their backup materials, and this would give staff time to provide these. Mr. Morris said the applicant had not yet worked out the parking issues.

Mr. Dunckel stated since some Board members no longer had the backup materials, it would be fair to continue the case.

Motion made by Mr. Willey, seconded by Mr. Jordan, to move the case to the end of the agenda. In a roll call vote, **motion passed 6 - 0**.

Upon returning to the case, Mr. Willey asked Mr. Morris the status of the parking problem. Mr. Morris said he had no correspondence from the owner, and the parking issue had not been solved. Mr. Morris reiterated his request for the Board to set a date certain time to hear the case.

Motion made by Mr. Willey, seconded by Mr. Weihe, to defer the case to the Board's September meeting, and requested that staff notify the owners of this.

Mr. Goldman suggested deferring the case for two months.

Motion made by Mr. Goldman, seconded by Mr. Jordan, to defer the item to the Board's October meeting. In a voice vote, **Board approved unanimously**.

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2. APPEAL NO. 07-26

APPLICANT: Las Olas & Andrews LLC

LEGAL: **The East 75.00 feet of Lot 20 AND the East 75.00 feet of the North 20.00 feet of Lot 19, Block 26 TOWN OF FORT LAUDERDALE, according to the plat thereof as recorded in Plat Book B, Page 40, of the public records of Dade County, Florida, Subject to right-Of-way of record. TOGETHER WITH The East 99.50 feet of the South 10.00 feet of Lot 21 AND the North 2.00 feet of the West 24.50 feet of the East 99.50 feet of Lot 20, Block 26, LESS the East 14.40 FEET thereof, TOWN OF FORT LAUDERDALE, according to the plat thereof as recorded in Plat Book B, Page 40, of the public records of Dade County, Florida. Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 5,142 square feet or 0.1180 acres, more or less.**

ZONING: **RAC-CC (Regional Activity Center- City Center District)**

STREET: **1 West Las Olas Blvd.**

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-13.20.H.1.a (Pedestrian priority streets)

Requesting a variance to allow a Zero (0) setback along 100% of the linear frontage of a parcel, where 75% of the linear frontage of a parcel along a pedestrian priority street shall be occupied by a ground floor building wall located 10 feet from the front property line, and where the remaining portions of the building shall be located a minimum of 5 feet from the property line.

Mr. Jeffrey Ostrow, applicant, reminded the Board they had already granted five variances on the property relating to landscaping and setbacks. He said while they had been working with the City toward developing a waste disposal agreement, the variances had lapsed. This evening he was requesting modifications to three of the variances, renewal of one, and he was abandoning one.

Mr. Ostrow gave a PowerPoint presentation regarding the property, a copy of which is a part of to the public record.

Mr. Ostrow explained that County had recently taken a part of his property along Las Olas, and it would lose nine feet. Mr. Ostrow asked for the modification of the variance to require two Sabal Palms on the Las Olas side instead of one and a half, and to require three Sabal Palms instead of one and a half on the Andrews Avenue side.

Mr. Michael Madfis, architect, clarified that on Las Olas, they were required to have one shade tree, and they wanted to substitute two Sabal Palms. There was no room to place the three Sable Palms because the County's corner court extended through the sidewalk. He noted that the Sable Palms were in keeping with the plantings along Andrews Avenue.

Mr. Ostrow said the next request was for a variance regarding the setbacks. Mr. Madfis explained that the property line had moved. Previously the Board had granted a variance of two and a half feet from the property line, but now that the property line had moved eight and a half feet, and they were requesting a total of 10 feet.

Mr. Carbonell asked why the replatting was required. Mr. Madfis said the lot and block description had not been fully delineated.

Mr. Jordan took issue with Mr. Ostrow's plan for a 10-story building with zero setbacks. Mr. Jordan did not agree that just because other buildings had been allowed to be constructed this way it should continue. He felt the City had been overbuilt, and wanted buildings to start moving back. Mr. Madfis said the master plan encouraged bringing the buildings closer to the property line to create an active pedestrian street, which would hopefully get people out of their cars and reduce congestion.

Mr. Goldman felt that Sabal Palms were “a pathetic joke when it comes to shade” and did not understand why they could not plant real shade trees. Mr. Madfis said the ULDR required 15 feet from the centerline of the tree to any other obstruction, and they did not have this condition, so they had suggested palm trees, which had the required spacing and were consistent with the rest of Andrews Avenue. He explained that the building also had awnings extending over the sidewalk, which would provide continuous shade.

Mr. Willey remembered Mr. Stresau indicating that Sable Palms probably were the best alternative here when Mr. Ostrow had appeared at an earlier hearing.

Mr. Willey was concerned about the setback issue. He remembered when they had heard the requests previously that the building would be as shown on the site plan, and he asked if this had changed. Mr. Madfis explained that the building footprint was exactly the same; its relative position to the property line had changed because of the County’s taking of some of the property. Mr. Madfis said there would be a change to the site plan relative to the corner court. They were no longer asking for that variance because they had increased the corner court due to their south property line moving to the north.

Mr. Carbonell noted there were several City versus County code conflicts with downtown projects. Regarding the trees, Mr. Carbonell noted that Andrews Avenue had been designated as a Sable Palm street, and Las Olas also had Sable Palms. Mr. Carbonell felt the canopies on the building made up for the shade not provided by the palm trees.

Mr. Carbonell felt this was an important corner and they needed a signature building there, and he felt 10 stores was adequate for the proportion.

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

Motion made by Mr. Goldman, seconded by Mr. Weihe, to approve the request for 47-13.20.H.1.a. In a roll call vote, **motion passed 5 – 1** with Mr. Jordan opposed.

APPEALING: Sec. 47-13.20.I.1 (Image streets)

Requesting a variance to allow a Zero (0) setback along 75% of the linear frontage of a parcel, where 75% of the linear frontage of a parcel along an image priority street shall be occupied by a ground floor building wall located 10 feet from the front property line.

Motion made by Mr. Weihe, seconded by Mr. Goldman, to approve. Mr. Willey asked that the same language from their original motion be added, “As shown on the site plan

presented to the Board of Adjustment.” Mr. Weihe and Mr. Goldman accepted the amendment. In a roll call vote, **motion passed 5 – 1** with Mr. Jordan opposed.

APPEALING: Sec. 47-13.20.H. 7.a (Pedestrian Priority Streets – Street Trees)

Requesting a variance to allow three (3) existing Sabal Palmettos along Andrews Avenue, where one and a half (1.5) shade trees are required.

Motion made by Mr. Carbonell, seconded by Mr. Weihe, to approve. In a roll call vote, **motion passed 5 – 1** with Mr. Goldman opposed.

APPEALING: Sec. 47-13.20.H.7.a (Pedestrian Priority Streets – Street Trees)

Requesting a variance to allow the planting of two (2) new Sabal Palmettos along Las Olas Boulevard, where one (1) shade tree is required.

Motion made by Mr. Weihe, seconded by Mr. Jordan, to approve. In a roll call vote, **motion passed 5 – 1** with Mr. Goldman opposed.

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3. APPEAL NO. 07-27

APPLICANT: TRG & S Las Olas

LEGAL: “Las Olas By The Sea Re Amend Plat”, P.B. 1, P. 16, Block 4, Lot 1
“Lauderdel Mar” P.B. 7, P. 30B, Block 1, Lots 1-7.

ZONING: PRD (Planned Resort Development District)

STREET: 101 South Fort Lauderdale Beach Boulevard

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 5-26(b) (Distance between establishments)

Requesting a special exception to allow a restaurant to sell alcohol that is incidental to the sale of food at a distance of 218 feet from the Beach Place Entertainment District and 195 feet from an establishment (Margarita Crab and Seafood) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

Mr. Ray Doumar, the applicant’s attorney, explained the request. He stated this was a restaurant, and the sale of alcohol was incidental to the sale of food. Out of a total of 6,900 square feet, 4,500 square feet was allocated to the restaurant and kitchen, 1,750 square feet was allocated to a coffee shop and 657 square feet was allocated to the outdoor patron area. Mr. Doumar said the restaurant would be open from 7 a.m. until 3 a.m.

Mr. Doumar stated the City had received no letters expressing concern or objection to the request. He noted that the granting of the special exception would not be contrary to the public interest.

Mr. Dunckel said one negative letter had been received. Mr. Doumar said this letter was not an objection, but a letter from a competitor stating they were too many beverage licenses in Broward County.

Vice Chair Larson opened the public hearing.

Mr. Tim Smith said he had been a City Commissioner when this building was approved. It had been a very contentious issue, and he remembered that part of the approval included the requirement that the restaurant in the front be historically themed. He asked the Board to keep the owner to this requirement.

Mr. Willey said the Board of Adjustment was not approving decor, but the City Commission's original approval included that requirement. Mr. Smith wanted the Board to grant approval only if the plan still conformed to the Commission's original approval.

Mr. Jordan said he became concerned whenever they considered lowering the bar about bars' and restaurants' proximity. He felt this could ruin a neighborhood.

Mr. Weihe confirmed that the décor was not before the Board of Adjustment this evening. Vice Chair Larson suggested Mr. Weihe include this in a motion. Mr. Doumar did not object to including this in the variance approval.

Mr. Dunckel said this property had gone through a Bert Harris dispute resolution process after approval. This had resulted in several modifications, including the preservation of the front of the building with the historical aspects, and preservation of historical themes in the restaurant and rooms. Mr. Dunckel felt it would be appropriate to include this in the motion since Mr. Doumar had no objection.

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

Motion made by Mr. Jordan, seconded by Mr. Willey to approve, with the stipulation that the building maintain the historical significance that was agreed upon when the plan was approved by the City Commission. In a roll call vote, **motion passed 6 – 0.**

Mr. Weihe said he was disappointed no one from the Grey, Robinson law firm that had sent the letter had attended the meeting to discuss it.

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4. APPEAL NO. 07-28

APPLICANT: Alright Corp.

LEGAL: Sub of Block 56 Fort Lauderdale 1-63 D Lot 7 less N 15 for R 1
Block 1

ZONING: RAC-CC (Regional Activity Center- City Center District)

STREET: 208 SE 6th Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Sec. 47-13.20.C.1.c (Vehicular use area regulations)

Requesting a variance to allow a vehicular use area to be located 10 feet from S.E. 6th Street (pedestrian priority street), where Code requires that vehicular use areas shall not be located within 50 feet of a pedestrian priority street.

Mr. Michael Sears, General Manager for USA parking system, explained they were requesting to maintain a curb cut that already existed, to reduce the setback to 10 feet, and to allow 100% of the frontage to be used for parking.

Mr. Sears displayed a photo of the area and explained they were going to demolish an existing building and convert it to parking. He explained that without the variance, it did not make sense to demolish the building and convert it to parking spaces. He said they did intend to comply with all landscape requirements. To his knowledge, no neighboring property owners objected to the request.

Mr. Willey asked why they would not allow entrance from the back; Mr. Sears said there currently was accessed from the rear, but there were advantages to having access to the business at the front door of the main generator, the Courthouse.

Mr. Weihe said it was helpful when driving by the Courthouse to have access on 6th Street as well as 6th Court.

Mr. Dunckel drew the Board members' attention to the first and third requests, and reminded them that this applicant was requesting relief that had been denied the owner of 500 West Broward Blvd, regarding which the City was still in litigation. He felt granting relief to this applicant would have a potentially deleterious effect on that litigation.

Mr. Carbonell felt something temporary to alleviate the parking problem might be in order, but granting the variance would perpetrate what they were trying to prevent in the future on the pedestrian streets. Mr. Carbonell felt private industry owned enough land to create parking garages behind retail and office buildings lining the street.

Mr. Willey said this brought up the issue of those who had totally disregarded the concept of temporary relief after the Board had granted it.

Vice Chair Larson remembered that on Broward Boulevard, they had asked the owner to do certain things that he had never done, such as additional landscaping. They had been delayed and delayed and delayed, and were now in litigation.

Mr. Sears said none of the existing trees on the site would be removed, and he intended to add additional landscaping after the building was demolished.

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

APPEALING: Sec. 47-13.20.C.1.c (Vehicular use area regulations)

Requesting a variance to maintain a curb cut on S.E. 6th Street (pedestrian priority street) that provides access to the parking area, where Code prohibits curb cuts to parking areas on pedestrian priority streets, where the property may access other streets or alleys.

APPEALING: Sec. 47-13.20.H.1.a (Pedestrian priority streets)

Requesting a variance to allow a parking area along 100% of the S.E. 6th Street frontage (pedestrian priority street), where Code requires that a minimum of 75% of the linear frontage of a parcel along a pedestrian priority street shall be occupied by a ground floor building wall located 10 ft. from the property line.

Motion made by Mr. Willey, seconded by Mr. Jordan, to approve all three requests. In a roll call vote, **motion failed 1 – 5** with Mr. Carbonell, Mr. Jordan, Mr. Goldman, Mr. Willey, and Vice Chair Larson opposed.

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5. APPEAL NO. 07-29

APPLICANT: 604 NE 14th Avenue, LLC

LEGAL: The South one-half (S 1/2) of Lot 19 and all of Lots 20-24, Block 304, "Progresso," according to the plat thereof, as recorded in P.B. 2, P. 18.

ZONING: RC-15 (Residential Single Family/Cluster Dwellings)

STREET: 604 NE 14th Avenue

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-19.1.G (General requirements)

Requesting a variance to allow two (2) pool pumps to be located 6 foot 11 inches and 7 ft. 0 inches from NE 6th Street property line, where Code requires that no accessory use or structure shall be located on a corner lot within 15 feet of any side street property line.

Mr. Carbonell stated he had a conflict for this item. He had designed the original building and subsequently his company had drawn plans for the property. He left the dais while this item was heard.

Vice Chair Larson informed the applicants that four of the five remaining votes would be required for approval, and the applicant elected to continue.

Mr. Monte Greenberg, representative of the applicant, explained that permits had been obtained for the pools, which were approved by two zoning examiners. He pointed out that the pools and pumps were screened behind a six-foot masonry wall, and any noise was mitigated by the waterfall feature. Mr. Greenberg said relocating the units would require them to be sited in front of two of the units' front doors.

Mr. Greenberg referred to a letter sent to the City objecting to the request, and noted that the letter referred to the neighbors' having to look at the pumps. He reiterated that they were screened behind a wall.

Mr. Harold Fowler, neighbor, testified that the wall completely blocked any view and any sound from the pumps.

Mr. Willey and Vice Chair Larson agreed the pumps could not be seen or heard from outside the wall. Mr. Willey noted that the pumps could have been located on the two corners near the gate to avoid needing a variance. He felt the cost to install them would have been higher, but now the people living on lower floors could see the pumps out their windows. Mr. Greenberg said there was some ambiguity in the code regarding where the pumps could be sited.

Mr. Morris said he had the permit file, and he did not see the pumps on the site plan.

Vice Chair Larson opened the public hearing.

Mr. J.D. Camp, neighbor, said this was new construction built by licensed professionals who should be aware of the codes, and this was why he objected to the request. He stated he had walked by the units and not heard any sound.

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

Motion made by Mr. Weihe, seconded by Mr. Goldman, to approve. In a roll call vote, **Motion passed 4 – 1** with Mr. Willey opposed.

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6. APPEAL NO. 07-30

APPLICANT: Ada B. Moore
LEGAL: "Stilwell Isle", P.B. 15, P. 34, Block 1, Lot 17
COUNTY
ZONING: RS-5 (One-Family detached dwelling district)
STREET: 2000 NW 29th Terrace
ADDRESS: Fort Lauderdale, FL

APPEALING: Broward County Code Sec. 39-286(1) (Side yards)

Requesting a variance to allow a corner side setback of 14.67 feet, where Broward County Code requires the corner setback to be 15.0 feet.

Ms. Pamela Adler, representative of the applicant, explained that the owner had repaired the Florida room after hurricane Wilma destroyed it. She confirmed for Vice Chair Larson that the house's footprint was unchanged.

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

Motion made by Mr. Willey, seconded by Mr. Jordan, to approve. In a roll call vote **Motion passed 6 - 0.**

Report and For the Good of the City

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Regarding the Board's discussions on shade trees during their hearing of item 07-26, Mr. Carbonell felt the Board should push for a resolution to the conflict between the City, Broward County and FDOT.

Mr. Carbonell noted that siting pool pumps was becoming a hardship on town home properties as well.

Mr. Dunckel noted that code allowed a pool and mechanical equipment to be built within five feet of a side property line, but it did not specify the corner. Code did allow a pool to be constructed within five feet of the corner lot line. He said when he read the code he thought it was permissible to include the equipment within that five feet.

Mr. Dunckel continued that the law specified that the zoning administrator's interpretation should be upheld unless it was clearly erroneous. If the code were

considered from a strictly constructionist perspective, since it did not say, "corner yard" in the exception, the zoning administrator's interpretation could be upheld. Mr. Dunckel said he had been told this was how the City had been applying this for quite some time.

There being no further business to come before the Board, the meeting was adjourned at 8:30 p.m.

Chair

Scott Strawbridge

ATTEST:

ProtoTYPE Inc., 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.
