

**Board of Adjustment Meeting  
City of Fort Lauderdale  
Wednesday, October 10, 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. Scott Strawbridge, Chair | P                        | 7                            | 2                    |
| 2. Don Larson, Vice Chair   | P                        | 9                            | 0                    |
| 3. Gus Carbonell            | P                        | 7                            | 2                    |
| 4. Gerald Jordan            | A                        | 8                            | 1                    |
| 5. Fred Stresau             | P                        | 8                            | 1                    |
| 6. Birch Willey             | P                        | 9                            | 0                    |
| 7. David Goldman            | P                        | 8                            | 1                    |
| <br>                        |                          |                              |                      |
| <b><u>Alternates</u></b>    |                          |                              |                      |
| Bruce Weihe                 | P                        | 5                            | 0                    |
| Diane Waterous Centorino    | P                        | 4                            | 1                    |

**Staff**

Bob Dunckel, Assistant City Attorney  
Yvonne Blackman, Secretary  
Don Morris, Board Liaison  
Liz Rivera, Recording Secretary

|                 |                 |
|-----------------|-----------------|
| Hope Calhoun    | Michael Gordon  |
| Joby Balent     | Norman Brown    |
| Edward Richards | Martin Bilowich |
| Tom Greco       | Shalanda Nelson |
| Joseph Reynolds | Charles Urso    |

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### **Call to Order**

Chair Strawbridge called the meeting to order at 6:33 p.m. Chair Strawbridge introduced the Board members and 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.

Board members disclosed communications they had regarding agenda items.

Chair Strawbridge announced there were no sign issues for any case.

### **Approval of Minutes**

**Motion** made by Mr. Larson, seconded by Mr. Wiley, to approve the minutes of the Board's September 2007 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 August 8, 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 stated this was the second time this appeal had appeared on the Board's agenda and the applicant had not appeared to present the request. Mr.

Dunckel stated the Board could continue the case for 30 days, or hear the case without the applicant's presentation of the evidence that the request met the criteria, which would result in a denial of the appeal.

Mr. Morris informed the Board that the applicant was aware of the requirements for the appeal, and Mr. Morris was unaware that the applicant had performed any of the required actions to address the parking issue. Mr. Morris said City staff had contacted the applicant prior to the hearing.

Chair Strawbridge said he assumed that this was a restaurant that claimed to be serving more than 50 percent of their volume in food, and wanted to compliment the food service with alcohol. Mr. Morris confirmed this, and explained that the restaurant did not meet parking requirements for the current use, and this constituted an illegal operation. Serving alcohol would neither worsen nor lessen the parking issue.

Mr. Morris explained to Mr. Carbonell that permits had been issued for the restaurant, and Zoning had signed off with the belief that sufficient parking existed. City staff later realized that there was not sufficient parking, but the business was already open by then. Mr. Morris described how the applicant had been noticed regarding the hearings, and said City staff had spoken with someone at the applicant's office regarding the specifics of this hearing.

Mr. Dunckel confirmed for Chair Strawbridge that if the Board denied this request, the applicant would be prohibited from making another appeal on these grounds for two years.

**Motion** made by Mr. Wiley, seconded by Mr. Weihe, to approve. In a roll call vote, Board unanimously **denied** the request 0 – 7.

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## **2. APPEAL NO. 07-33**

**APPLICANT:** J. Arnold Mittelman

**LEGAL:** The East one-half (E ½) of the Northeast one-quarter (NE ¼) of the Southeast one-quarter (SE ¼) of Section 9, Township 49 South, Range 42 East, as more particularly described in the application for a variance for Appeal No. 07-33, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment TOGETHER WITH other lands more particularly described in the application for a variance for Appeal No. 07-33, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

**ZONING:** I (General Industrial)

**STREET:** 6001 NW 9<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-22.3(G) (Flat signs/wall signs)**

Requesting a variance to permit 622 square feet of wall signs on the east facade, and 2,191 square feet of wall signs on the north facade, where Code provides that the maximum size of a wall sign is 300 square feet.

**APPEALING: Section 47-22.4(A)(1) (Maximum number of signs permitted at one location)**

Requesting a variance to permit 7 flat signs/wall signs facing east toward Powerline Road and north facing Cypress Creek Road to fully inform the consuming public of its multiple offerings, where Code permits 4 (four) signs on the property.

Ms. Hope Calhoun, attorney for the property owner, explained to the Board that this property was over 155,000 square feet and was formerly a Levitz furniture store. The furniture store had vacated the premises in 1998, and the current retail tenants had moved in sometime in 2004. The property was zoned industrial, which limited signage at the property. Ms. Calhoun explained the parking lot was adjacent to Cypress Creek Road, but the buildings were set back over 500 feet. She stated the signage was requested to provide safe and effective advertisement for the businesses.

Ms. Calhoun presented photos of the property and noted that passing vehicular traffic would have a difficult time identifying businesses at the site. The proposed sign package would clearly identify businesses at the property for passing motorists. Ms. Calhoun explained the proposed plan included four signs along Powerline Road and five signs along Cypress Creek Road. Ms. Calhoun said they believed their request was in scale based upon the size of the building and the distance from the roadway. They also believed their request met all of the criteria.

Because of existing trees on the property, Mr. Larson thought the signs would need to be located very high and therefore would not be in a direct line of sight for passing motorists; he suggested a monument sign. Ms. Calhoun presented a rendering of the proposed signs, and said they felt the signs would be more effective placed on the buildings than a monument sign.

Chair Strawbridge asked what signage would be permitted if this were commercially zoned property. Mr. Morris said the property had not been evaluated as a commercial property. If it were, each tenant would be permitted a sign on the building.

Mr. Carbonell asked if the existing signs were legal. Ms. Calhoun said permits were issued for the existing signs. Mr. Carbonell wanted to know what size signage would be permitted if this were zoned for business. Ms. Calhoun believed 300 feet of signage per tenant would be allowed.

Mr. Morris confirmed that for shopping centers or strip malls, two directory signs were permitted. With ground level stores, tenants signs were permitted. Such signs could not extend above the ground floor level, all signs must be identical in color and installed at a uniform height with letters not to exceed 24 inches in height.

Ms. Calhoun submitted copies of six letters of support from nearby property owners, stating they appreciated this use and felt it would bring additional customers to the area.

Mr. Goldman believed the existing signs were temporary and ad been permitted as such. Mr. Charles Urso, building owner, said these were temporary signs that were permitted. He said when he purchased the building in 2000, they removed the Levitz furniture signs, and had never put permanent signs on the building. Mr. Urso believed the design they had developed for their tenants was the clearest and cleanest presentation. He said they had also brought the tree canopy back to 1989 levels, and this would not interfere with the signage.

Mr. Carbonell believed that buildings this large deserved some relief from the sign regulations. He said he did not object to the sign's being large relative to the size of the building, but he felt this was crowding too many things onto one wall. Ms. Calhoun explained the difficulty of placing effective signage near entrances because of the layout of the building.

Chair Strawbridge opened the 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. Goldman asked if a new tenant would need to appear for a new variance for a sign. Mr. Dunckel said this would depend on conditions the Board attached to the variance.

Chair Strawbridge said he would be more comfortable if the signs comported with what they customarily allowed for shopping center signs, rather than creating this custom hybrid sign design. Mr. Stresau agreed, and remembered they had struggled with two or three shopping centers with sites at least this large, and had never allowed them to change their pylons signs, or allowed multiple tenants to appear on a sign face. He said the Board would be more amenable to the type of signage permitted at a shopping center. Mr. Stresau noted that they were well over the 300 square foot aggregate for the signs facing the street. He recommended moving the smaller tenant's sign.

Chair Strawbridge remembered that at the Galleria Mall, the Board had approved a monument sign that exceeded the customary size, and pointed out that the mall's largest monument sign did not approach the size being requested on the building pilaster. He recommended the applicant request a deferral and return with a new design.

Ms. Calhoun asked if the Board would be amenable to moving the spa sign to the same portion of the building as the plumbing and kitchen companies' signs and leaving the other two signs as they were. Mr. Stresau said this would bring the signage size much closer to the 300 square foot limit.

Mr. Carbonell requested that better graphics be provided when the applicant returned.

**Motion** made by Mr. Larson, seconded by Mr. Stresau on to defer the item for 60 days. In a voice vote, Board unanimously approved.

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### **3. APPEAL NO. 07-34**

**APPLICANT:** Gateway Shoppes, LLC

**LEGAL:** A portion of Tracts 1 and 2, LAKE PARK, UNIT "1", as recorded in Plat Book 23, Page 36 of the Public Records of Broward County, Florida, as more particularly described in the application for a variance for Appeal No. 07-34, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

**ZONING:** B-1 (Boulevard Business)

**STREET:** 1013 N. Federal Highway

**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 and service of food at a distance of 199 feet from another establishment (Around the Bend) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sells alcoholic or intoxicating beverages.

Mr. Michael Gordon, leaseholder, said when they applied for their occupational license, there had been no other restaurant serving alcohol within the 300-foot proximity. Before their restaurant opened, another restaurant had opened across the street. Mr. Gordon said someone at the City had erroneously allowed the other business to open without requesting a variance.

Mr. Gordon described his business, and the positive things they did for the community, and said not being able to sell the organic alcohol products had hurt their business.

Mr. Morris explained that the alcohol measurement requirement went with the property. The ability to sell alcohol transferred with ownership of the property, so Mr. Gordon's belief that his need for a variance was due to the other restaurant's opening was erroneous.

Chair Strawbridge referred to a letter from Lake Ridge Civic Association opposing the request.

Chair Strawbridge opened the 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.

**Motion** made by Mr. Willey, seconded by Mr. Stresau, to approve. In a roll call vote, Board unanimously approved 7 – 0.

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#### **4. APPEAL NO. 07-35**

**APPLICANT:** Broward County Board of County Commissioners

**LEGAL:** A portion of Parcel "A" of the REPLAT OF A PORTION OF W.H. MARSHALL SUBDIVISION, as recorded in Plat Book 62, Page 21 of the Public Records of Broward County, Florida, as more particularly described in the application for a variance for Appeal No. 07-35, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment.

**ZONING:** I (General Industrial)

**STREET:** 3400 SW 4<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Section 47-18.13.B.1 (Flammable liquids and fuel storage)

Requesting a variance to allow an above ground gasoline storage tank in the district where Code stipulates that above ground storage of flammable liquids shall only be permitted at Port Everglades in the area zoned PEDD.

Mr. Joby Balent, project architect, said his company had been hired to design self-supporting fire stations. He said environmental considerations had led them to design aboveground fuel tanks. Mr. Balent said during permitting, they realized they must remove the gasoline tank, and they had decided to address the aboveground tank issue later.

Mr. Balent explained the fuel tanks would allow the building to run on generators for up to five days, and could also be used to fuel vehicles. He said it was easier to maintain and protect tanks located above ground. Mr. Balent said the City had recently allowed aboveground diesel tanks, but not gasoline tanks. He stated the aboveground tanks were design criteria stipulated by BSO Fire Rescue for all their sites.

Mr. Morris said the amendment to the code to permit aboveground diesel tanks had been intended to allow businesses to rely on generators during power outages after a disaster such as a hurricane. He explained that the ordinance had not been amended to include aboveground gasoline tanks because the fire department was concerned about the fire hazard.

Mr. Larson was concerned that the tank would not be enclosed. Mr. Morris said whatever was being proposed must meet NFPA and building code requirements.

Mr. Dunckel asked if the City of Fort Lauderdale had any aboveground gasoline tanks for their fire or police departments. Mr. Morris was not aware of any.

Mr. Norman Brown, project manager, informed the Board that these gasoline tanks were designed to meet stringent U. L. approvals, and were resistant to bullets and missiles. He said they were approved by Broward County and had been installed at other sites with no problem. They would meet NFPA and Florida building codes. He added that this fire station was on 6.3 acres of land, far from other buildings in the area. Mr. Brown explained that the gasoline pipes were self-contained and the tank was enclosed by a CMU wall.

Mr. Stresau asked if the City fire marshal had been consulted regarding the gasoline tank. Mr. Balent said he had sent photos of the tanks and their specs to the fire marshal. He believed the fire marshal would approve the granting of a variance.

Mr. Larson asked if two members of the fire department had signed off on this. Mr. Balent said the fire department would not even consider it because it had not been allowed by zoning. Chair Strawbridge said the Board would feel more comfortable voting on this item with assurances from the City fire marshal.

Mr. Balent requested the item be deferred for 30 days for him to confer with both the City and County fire Marshals. Chair Strawbridge requested that a fire marshal appear before the Board as well. Mr. Morris confirmed that the City fire marshal would approve the permit drawings, so that was the person with whom Mr. Balent should confer.

**Motion** made by Mr. Weihe, seconded by Mr. Stresau, to defer the item for 30 days. In a voice vote, Board unanimously approved. 7 - 0



**5. APPEAL NO. 07-36**

**APPLICANT:** Robert A. & Marlene N. Uchin

**LEGAL:** Portions of Lots 1 & 2 "Seawanna," according to the plat thereof as recorded in P. B. 7, Page 37 as more particularly described in the application for a variance for Appeal No. 07-36, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment.

**ZONING:** RM-15 (Residential Low Rise Multifamily/Medium Density)

**STREET:** 501 SW 7<sup>th</sup> Avenue

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-19.2.S (Accessory buildings and structures mechanical and plumbing equipment)**

Requesting a variance to allow a generator to be placed 16 feet from the front property line (SW 7<sup>th</sup> Avenue), where code requires mechanical equipment to be located outside the required front yard which is 25 feet.

Mr. Edward Richards, representative of the applicants, explained the property was unique, with the new River and the parking area as side yards. He explained there was no land that was not enveloped within the setbacks in which the generator could be placed. The front yard adjacent to 7th Avenue was buffered by a 10-foot strip of property deeded to the City, so the building's setback from the right-of-way was 36 feet. Mr. Richards displayed a site plan, and explained this was a natural gas generator serviced by a City gas line.

Chair Strawbridge noted that the homeowner association's approval stipulated certain plantings to screen the equipment.

Chair Strawbridge opened the 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. Richards explained to Mr. Stresau that the generator would serve five units in the adjacent building.

Mr. Stresau felt the unit would be better situated to the west. Mr. Richards said this was not possible, and would probably require an easement.

**Motion** made by Mr. Goldman, seconded by Mr. Larson, to approve. In a roll call vote, Board unanimously approved 7 - 0.

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**6. APPEAL NO. 07-37**

**APPLICANT: Martin & Patricia Bilowich**

**LEGAL: "Lauderdale Beach", Block 5, N 75' of Lots 13 and 14**

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

**STREET: 2621 Center Avenue**

**ADDRESS: Fort Lauderdale, FL**

**APPEALING: Section 47-5.31 (Table of Dimensional Requirements for the RS-8 District)**

Requesting a variance to permit a 15-foot corner yard, where Code requires an 18-foot 9-inch corner yard.

Mr. Martin Bilowich, applicant, said the permit plans approved by the City called for retaining 55% of the existing foundation and walls and maintaining the current north wall setback of 3'9" beyond the current setback.

Mr. Bilowich explained that when they applied for the tie beam approval, they were notified by Zoning that the house was not compliant and they must move the north wall in 3'5". Mr. Bilowich said if they removed the break in the north wall, the building would resemble a commercial townhouse with the sheer three-story wall. Mr. Bilowich informed the Board that the second and third floors and the garage were compliant for the current setback. He said he was only trying to maintain the wall where it had been located for 50 years.

Chair Strawbridge remarked on how wide the right-of-way was in the neighborhood and said it would not appear that the house was crowding the roadway or the neighbors.

Mr. Bilowich said he had obtained approval from all of the neighbors who lived here full-time, and the president of the homeowners association had written a letter in favor of the request.

Mr. Weihe wondered how a project could get so far along before a problem such as this was noticed. Chair Strawbridge said that in the past, cases such as this had been mistakenly approved by the City, but in this case there were some legitimate extenuating circumstances, and it would not have been reasonable to expect the structural inspector to recognize this.

Mr. Stresau felt that before the plans were filed, someone should have realized that the wall was not sound. He felt someone had been disingenuous about this. Chair Strawbridge said they must not have done any destructive testing or this would have been obvious.

Mr. Bilowich explained to Mr. Willey that the new wall was exactly the same, and in the same position as the old wall, but it was nine inches taller.

Chair Strawbridge opened the 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.

**Motion** made by Mr. Weihe, seconded by Mr. Stresau, to approve. In a roll call vote, Board unanimously approved 7 - 0.

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## **7. APPEAL NO. 07-38**

**APPLICANT:** Mr. & Mrs. Joseph Reynolds

**LEGAL:** "Melrose Manor", P.B. 40, P. 32B, Block 12, Lot 14

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

**STREET:** 2828 SW 5<sup>th</sup> Court

**ADDRESS:** Fort Lauderdale, FL

### **APPEALING: Section 47-3.1(B) (Continuation of a nonconforming use)**

Requesting a variance to allow the enlargement of a nonconforming structure, where such enlargement is prohibited.

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

Requesting a variance to allow the construction of an attached garage (previously a carport) that is 24 feet 11 inches from the front property line (SW 5<sup>th</sup> Court), and 16 feet 10 inches from the corner side property line (SW 28<sup>th</sup> Terrace), where Code requires a 25-foot front yard and a 18.75 foot minimum corner side yard.

Ms. Shalanda Nelson, representative of the applicants, stated the correct address was 2825 Southwest 5<sup>th</sup> Court.

Ms. Nelson explained that most of the original carport was lost in hurricane Wilma. A portion of the structure remained, but most of the roof structure was gone. Ms. Nelson stated Building had approved their plans based on approval from Zoning. Zoning had informed them that the property was nonconforming. She described the lot and existing setbacks, and stated that in the variance application they had requested the maximum 16'10" to allow the owner to replace an aboveground planter after the carport was rebuilt.

Mr. Reynolds confirmed he had owned the home for over 30 years and it had always been located within Fort Lauderdale city limits.

Mr. Morris explained to Chair Strawbridge that if a portion of a nonconforming structure were demolished or destroyed by a natural event, the replacement must be rebuilt to existing codes. Chair Strawbridge said he had believed that if the structure were destroyed by an act of God, it could be rebuilt in its former state. Ms. Nelson said she had believed this as well before she made the application.

Chair Strawbridge opened the 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.

**Motion** made by Mr. Goldman, seconded by Mr. Larson, to approve both requests. In a roll call vote, Board unanimously approved 7 - 0.

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

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Mr. Morris informed Board members they would be receiving an invitation to attend a meeting at which City staff would visit a neighborhood to present the results of a workshop and to present draft zoning language.

Mr. Willey thought the Board had determined recently that they did not want to keep tabling requests because an applicant realized during his presentation that the Board would deny his request.

Mr. Stresau thought this option had been offered to applicants when not all Board members were present, and some Board members had objected to this. Months ago, the Board had determined that prior to making the presentation, an applicant could elect to defer, but if the applicant proceeded with the presentation, he must abide by the Board's vote.

Regarding the deferral of this evening's case involving the aboveground gas tank, Mr. Stresau said he must hear from the City fire marshal prior to voting on this item. He also felt the fire marshal's testimony could result in changes being made to the code.

Mr. Dunckel clarified for the Board that if any Board member were accosted by an applicant, he or she should contact the state attorney's office.

There being no further business to come before the Board, the meeting was adjourned at 9:05 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.

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