

**Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, December 12, 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	8	3
2. Don Larson, Vice Chair	P	11	0
3. Gus Carbonell	P	9	2
4. Gerald Jordan	P	9	1
5. Fred Stresau	P	9	2
6. Birch Willey	P	11	0
7. David Goldman	P	10	1
<u>Alternates</u>			
Bruce Weihe	P	7	0
Diane Waterous Centorino	P	5	2

Staff

Bob Dunckel, Assistant City Attorney
Yvonne Blackman, Secretary
Greg Brewton, Deputy Director
Terry Burgess, Chief Zoning Examiner
Mike Ceisielski, Planner
Liz Rivera, Recording Secretary

Guests

Christian Kavanaugh	Jerry Scalso
Kirby Williams	Vivian Wheeler
John Nye	Abe Burejedi
Chris Crisillot	Don Karnie
Isabel Dryer	

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Call to Order

Mr. Stresau announced that he could not participate this evening because he had been hospitalized and anesthetized within the last couple of days. The anesthesiologist had advised him that although he believed his judgment would not be affected, it was possible someone could question his vote.

Vice Chair Larson called the meeting to order at 6:34 p.m. Vice Chair Larson introduced the Board members and described the functions of the Board and procedures they would use for the meeting. Vice Chair Larson recited the list of criteria from City code for granting a variance.

Board members disclosed communications they had regarding agenda items.

Ms. Centorino reported that she had gone by the New Hope Community Church property and seen no sign.

Mr. Carbonell stated he had a conflict regarding items five, eight and nine.

Mr. Weihe asked for Mr. Dunckel's opinion of whether he had a conflict regarding item number five. He stated he had represented the applicant on an unrelated item.

Approval of Minutes

Motion made by Mr. Jordan, seconded by Mr. Weihe, to approve the minutes of the Board's November 2007 meeting. Board unanimously approved.

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

Vice Chair Larson announced that applicants for items one, eight and nine had requested to be deferred to the next meeting.

Motion made by Mr. Jordan seconded by Ms. Centorino, to defer items one, eight and nine to their next meeting. Board unanimously approved.

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1. APPEAL NO. 07-33 (Deferred from November 14, 2007 meeting)

APPLICANT: J. Arnold Mittelman

LEGAL: The East one-half (E ½) of the Northeast one-quarter (NE¼) 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 9th 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.

Deferred to the Board's January meeting.

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2. APPEAL NO. 07-41 (Deferred from November 14, 2007 meeting)

APPLICANT: Phillipe Ductan

LEGAL: "Progresso" P.B. 2, P. 18, Block 127, Lots 31,32,33,34

ZONING: RD-15 (Residential Single/Duplex/Low Medium Density District)

STREET: 1210 NW 7th Terrace

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.32 (Table of dimensional requirements for the RD-15 district)

Requesting a variance to allow the existing single family house to encroach 3.6 feet into the side yard, resulting in a 1.4 foot side yard, where Code requires a 5 foot side yard.
[This item was heard out of order]

The applicant for this case did not appear.

Mr. Willey made a motion to approve.

Mr. Dunckel reminded the Board that the last time they had heard this case, lots 31 and 32 had been advertised and a duplex under construction had been red tagged because a single-family dwelling on lots 33 and 34 encroached into the side yard setback. He had suggested that if a variance were granted for lots 33 and 34, a condition could be imposed on lots 31 and 32 that this structure must maintain at least a 10-foot distance separation. Mr. Dunckel recommended this be included in the Board's motion. Mr. Dunckel cautioned the Board that if they voted to deny this tonight, it could not be brought back for another variance request for two years.

Mr. Brewton confirmed that the item had been properly advertised for this meeting. Mr. Burgess confirmed that the red tag had been lifted to permit the duplex project.

Mr. Willey withdrew his motion.

Motion made by Mr. Willey, seconded by Mr. Weihe, to defer this item to the Board's next meeting. In a voice vote, Board unanimously approved.

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3. APPEAL NO. 07-42

APPLICANT: Christian Kavanaugh

LEGAL: "Lake Estates", P.B. 42, P.1, Block 4, Lot

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

STREET: 2730 NE 58th Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-19.2.S (Mechanical and plumbing equipment)

Requesting a variance to allow air conditioning unit to setback 4 feet from the side (west) property line, where Code requires that mechanical equipment shall be no closer than 5 feet from any property line.

Mr. Christian Kavanaugh, applicant, explained that he had installed new air conditioning units. He stated he did not wish to move the units to the rear of the property because of the impact this would have on the units' energy efficiency, and the view. He explained he had letters from surrounding neighbors stating they did not object to the new units remaining where they were, and that the units were sufficiently shielded from public view.

Mr. Dunkel pointed out that the plans clearly showed the units should be located 5 feet from the property line and asked what happened when the units were installed. Mr. Jerry Scalso, Mr. Kavanaugh's contractor, explained that the old units were much smaller than the new ones, and larger than he had anticipated. He agreed with Mr. Dunkel that the architect must have erred when creating the plans.

Vice Chair Larson said he had visited the property to explore whether the unit could be moved to the rear of the property, and he agreed with the contractor that a new unit of the same type as the old one would have been much larger.

Mr. Scalso informed Ms. Mr. Willey that there was no unit currently made that could be installed in that spot and meet the code requirements.

Mr. Carbonell noted that air-conditioning units kept getting larger and larger and this was becoming a problem.

Mr. Jordan said he had a problem with this installation and felt it should be moved to the rear of the property. Mr. Kavanaugh informed Mr. Jordan that if the units were in the backyard they would be seen from the waterway and they would obstruct the view from inside the home.

Mr. Scalso noted that the unit would require a variance to be located in the backyard because it would need to be located within the 25-foot setback. Mr. Burgess confirmed that code allowed mechanical equipment to be located within a rear yard setback; it must be located 10 feet from the waterway.

Vice Chair Larson opened the public hearing.

Mr. Scalso said he was the second builder on this project, and had worked to finish the home. The first contractor had worked for eight months without a permit. Mr. Scalso pointed out that he had not designed the building but had only built it to plan. He said he had met with Mr. Burgess during the course of the project, and he had suggested replacing the unit with one of the same type as the original. Mr. Burgess said he had informed Mr. Scalso that if he changed a component but not the entire system "it would be fine."

Mr. Scalzo said it was not an option for him as the second builder working on the project to move the units to the backyard. Mr. Scalzo believed that the unit could not be put in the front or back yards because they were both right-of-way. Mr. Carbonell felt that replacing the old type of unit with the split type of unit was a 300% improvement and he approved it.

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. Jordan, to approve. In a roll call vote, with Mr. Willey opposed, motion passed 6 - 1.

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4. APPEAL NO. 07-43

APPLICANT: New Hope Community Church, Inc.

LEGAL: A parcel of land in the NW ¼ of Section 8 Township 49 South, Range 42 East. Said parcel being more particularly described particularly described in the application for a variance for Appeal No. 07-43, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment **ZONING:** CF-HS (Community Facility-House of Worship and School)

STREET: 6400 NW 31st Avenue

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-22.3 L (Point of purchase signs)

Requesting a variance to allow four (4) points-of-purchase signs, where Code limits the number of points-of-purchase signs to two (2).

APPEALING: Section 47-22.9 (Permits)

Requesting a variance to allow changeable copy for two (2) points-of-purchase without requiring a permit when the copy is changed, where Code requires a permit and plot plan for any sign showing location, type, size and copy.

Mr. Kirby Williams, pastor, explained that they wanted a new sign of the same type as the one that was previously there. Pastor Williams described the facility and functions occurring at the property, and explained that the sign was used to advertise meetings, events and functions to the community. Pastor Williams confirmed that the sign would be the same dimensions and location as the previous sign.

Pastor Williams presented a letter from the local community organization stating the sign would be a great benefit to them and would not be considered an encumbrance or a problem.

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.

Pastor Williams explained that this was physically one sign, and presented a rendering of the sign. He described to Ms. Centorino where it would be located.

Mr. Carbonell asked for clarification from Mr. Brewton regarding the signs, and Mr. Brewton explained that this was a double-sided sign, and each side had two point of purchase signs. He reminded the Board that they were voting tonight on the request for the point-of-purchase signs and the changeable copy.

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

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5. APPEAL NO. 07-44

APPLICANT: Hendricks Developers, Inc.

LEGAL: A portion of Lot 10, Dames & Young Re-subdivision of Block “C” of the Subdivision of Blocks “A”, “B”, “C”, & “D”, in the South one-half (S ½) of FRANK STRANAHAN’S SUBDIVISION ZONING: RC-15 (Residential Single Family/Cluster Dwellings/Low Medium Density District)

STREET: 1208 NE 1st Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-19.2.S (Mechanical and plumbing equipment)

Requesting a variance to allow pool equipment (pool heater and pump) to be located 9.45 feet from the front property line (NE 1st), where Code requires that mechanical equipment shall not be located within the required front yard, which in this case is 25 feet.

Mr. Weihe and Mr. Carbonell recused themselves.

The applicant for this case did not appear.

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

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6. APPEAL NO. 07-45

APPLICANT: Joseph Levinson

LEGAL: "Flamingo Park Section D", P.B. 41, Block 12, Lot 53

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

STREET: 1841 SW 23rd Avenue

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-19.2.B (Architectural features in residential districts)

Requesting a variance to allow a roof eave to encroach 3 feet 7 inches into the required rear yard, where Code allows such architectural features to encroach 1/3 the required yard or 3 feet, whichever is less.

Mr. John Nye, representative of the applicant and project contractor, said he was unaware of the issue until the final survey was presented to the City for approval. The final survey revealed the 7-foot encroachment. Mr. Nye had letters from the neighbors on either side of the property stating they did not object to the encroachment. He presented photos of the finished property and pointed out where the encroachment was.

Ms. Centorino asked how this had happened. Mr. Nye explained that the architect had not checked the setbacks. He reiterated that he had been unaware of this problem when he built the property. Mr. Nye explained to Ms. Centorino that it was possible to cut back the eave, but it would be extremely costly and messy.

Mr. Nye explained to Vice Chair Larson that he had torn the eave off the back of the house and built up the existing back wall of the house toward the rear setback. Mr. Nye stated the eave was actually a walkway. Mr. Willey said he would vote to solve this problem now, but he did not want to variance to be tied to the land forever. Mr. Dunckel suggested the variance could be stated to expire if the roof were damaged 50% or more, or lost. Mr. Nye stated the roofline was within the setback; it was the walkway/balcony that protruded. Mr. Dunckel suggested specific wording for the motion.

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 Ms. Centorino, to approve, with the condition that the variance would expire if the balcony/eave were destroyed by 50% or more of the value of the balcony/eave by voluntary redesign, demolition, or loss from casualty. In a roll call vote, Board unanimously approved 7 – 0.

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7. APPEAL NO. 07-46

APPLICANT: Dreyer, C Isabel & Dreyer, H J & Slaughter, K E D
LEGAL: "Croissant Park", P.B. 4, P. 28B, Block 55, Lot 7
ZONING: RO (Residential Office District)
STREET: 420 SE 18th Court
ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.60.C.6.C (Residential office zoning districts-rear yard)
Requesting a variance to allow a 16-foot 4-inch rear yard, where Code requires the rear yard to be 20 feet.

Mr. Abe Burejedi, representative the applicant, explained that the Building Department had approved the plans and the contractor had pulled a permit. The spot survey after the foundation was poured revealed that the setback used in the plans was incorrect. Mr. Burejedi stated the original building was at almost 15 feet.

Vice Chair Larson said the spot survey after the footer should have revealed the problem. Mr. Chris Crisillot, contractor, explained they had followed the rule to have the spot survey prior to tie beam inspection. He noted that on a project this small, it only took a day's time to erect the walls and/or to form up the tie beams. Vice Chair Larson felt the contractor should have seen the problem when the footers were laid out. Mr. Crisillot agreed, but reminded the Board that the plans specified 15-foot set backs not 20.

Mr. Dunckel asked who the architect was. He also wanted to hear from Zoning regarding how the plans had been approved with an incorrect setback. Mr. Burejedi, stated he was the engineer and had drawn the plans; there was no architect. Mr. Burgess said he had reviewed the plans after the error was discovered and determined that the City had signed off on the plans with the 15-foot setback.

Vice Chair Larson opened the public hearing.

Mr. Don Karnie, adjacent neighbor, said he opposed the variance. He remarked that buildings were getting closer and closer to proper lines all over the City and no one seemed to be paying attention. He felt someone should be held responsible for these mistakes.

Ms. Centorino asked what would happen if the Board denied the request. Mr. Brewton stated the plans must be adjusted to meet code. He acknowledged that the City was partly at fault, but said they believed that professionals who created the plans were equally responsible to be aware of and to observe current codes. The City's position was that their mistake did not entitle the owner to a variance.

Mr. Dunckel read from ULDR Section 47-1-16 regarding development permits: "The approval of a development permit shall not be construed to create a right to any development of property that fails to meet the requirements of all land development regulations applicable to the development." He informed the Board that there was both precedent and support in the law for them to deny the variance.

Mr. Crisillot said they were not attempting to blame the City; they were requesting forgiveness for their error so they could proceed with the project.

Ms. Isabel Dryer stated she owned this property and wanted to build this project to bring up the neighborhood. She asked the Board for forgiveness and to approve the project.

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. Jordan, to approve. In a roll call vote, with Ms. Centorino, Mr. Weihe and Vice Chair Larson opposed, motion **failed** 4 - 3.

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8. APPEAL NO. 07-47

APPLICANT: Fort Lauderdale Community Redevelopment Agency

LEGAL: "River Gardens", P.B. 19, P. 23, Block 1, Lots 1, 2 and 3, Less N. 10 feet.

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

STREET: 2130 & 2140 NW 6th Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.34 (Table of dimensional requirements for the RM-15 district)

Requesting a variance to allow a 10 foot and 15 foot front yard, where Code requires a 25-foot front yard.

Deferred to the Board's January meeting.

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9. APPEAL NO. 07-48

APPLICANT: Sweetling Associates, LLC. (DBA) New Visions CDC

LEGAL: "River Gardens", Block 2, Lots 1,2,3,4,5 & 6, Said parcel being more particularly described particularly described in the application for a variance for Appeal No. 07-48, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

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

STREET: 2144 & 2158 NW 6TH Street

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-5.34 (Table of dimensional requirements for the RM-15 district)

Requesting a variance to allow a 10 foot and 15 foot front yard, where Code requires a 25-foot front yard.

Deferred to the Board's January meeting.

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There being no further business to come before the Board, the meeting was adjourned at 8:10 p.m.

Chair:

Vice Chair Don Larson

Attest:

ProtoType Inc.

A digital recording was made of these proceedings, of which these minutes are a part, and is on file in the Planning and Zoning offices for period of two years.