

**Board of Adjustment Meeting  
City of Fort Lauderdale  
Wednesday, March 12, 2008 – 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 6/2007 through 5/2008</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
1. Scott Strawbridge, Chair	<b>P</b>	<b>8</b>	<b>2</b>
2. Don Larson, Vice Chair	<b>P</b>	<b>10</b>	<b>0</b>
3. Gus Carbonell	<b>P</b>	<b>10</b>	<b>0</b>
4. David Goldman	<b>P</b>	<b>9</b>	<b>1</b>
5. Gerald Jordan	<b>P</b>	<b>9</b>	<b>1</b>
6. Fred Stresau	<b>P</b>	<b>8</b>	<b>2</b>
7. Birch Willey	<b>P</b>	<b>10</b>	<b>0</b>
 <b><u>Alternates</u></b>			
Diane Waterous Centorino	<b>P</b>	<b>8</b>	<b>2</b>
Bruce Weihe	<b>P</b>	<b>9</b>	<b>1</b>

**Staff**

Bob Dunckel, Assistant City Attorney  
Yvonne Blackman, Secretary  
Terry Burgess, Chief Zoning Examiner  
Cheryl Felder, Permitting Department  
Brigitte Chiappetta, Recording Secretary, ProtoType Services

**Guests**

Joe Bellavance	Craig Bencz
Tory Patrick	Andrew Russo
A. Aruga	Bruce Hugman
Pat Kublin	Les Stevens
Robert Lochrie	Brian Ross
Don Dillman	Richard Geldbaugh
Ron Ernst Jones	Ian Henderson
Bridget Long	Mike Wood
Greg Dujon	Robert Leeka
Ralph Clark	Alfred Battle, Director of the Northwest Community Redevelopment Agency

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**Call to Order**

Chair Strawbridge called the meeting to order at 6:35 p.m. He introduced the Board members and described the functions of the Board and procedures that would be used for the meeting.

**Approval of Minutes**

**Motion** made by Mr. Larson, seconded by Mr. Willey, to approve the minutes of the Board's February 2008 meeting. In a voice vote, motion passed 7 - 0.

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

Board members disclosed communications they had regarding agenda items.

Mr. Carbonell announced he had a conflict with items 1, 2, and 5 and he would step down when those items were heard.

Chair Strawbridge announced he had a conflict with item 4 and he would step down when that item was heard.

Mr. Weihe noted his attendance was incorrect on the minutes; he had only been absent once in 2008.

**Motion** made by Mr. Stresau, seconded by Mr. Willey, to approve the minutes with the amendment to Mr. Weihe's attendance. In a voice vote, motion passed 7 - 0.

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**1. APPEAL NO. 07-47** *(Deferred from February 13, 2008 meeting)*

**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 6<sup>th</sup> 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.

Mr. Carbonell stepped down while this case was heard. Mr. Weihe replaced Mr. Carbonell for this case.

Mr. Alfred Battle, Director of the Northwest Community Redevelopment Agency, clarified that while the City CRA was the applicant, the City would transfer ownership of the property to the developer once all of the pre-development requirements were met.

Mr. Battle explained that in 2003, the CRA had embarked on an infield housing project and had solicited the help of three development parties to build approximately 50 homes in the neighborhood. Those parties included Bank of America, Lennar Homes, Mo Homes and New Vision CDC. The objective was to build single-family and town homes. Mr. Battle said this was part of the City's Northwest Community Redevelopment Agency effort in this neighborhood. This request was for 12 town homes along Sistrunk Boulevard.

Mr. Battle continued that the developer had been the only respondent to the conveyance request because they owned the other parcels that would be developed as the second part of this appeal. The developer also was a participant in an existing program for affordable housing.

Mr. Battle explained that the development agreement included the provision for the developer to apply for zoning changes and exceptions. It also provided for the developer to apply for a variance as needed or desired.

Mr. Battle had distributed a memo endorsed by the City Commission acknowledging that the developer may be required to obtain a variance. Mr. Battle said the City entered into agreements such as this with developers in this neighborhood because the zoning was often not readily available for the developer to build the types of projects that were consistent with the CRA's vision for the area.

Mr. Battle admitted that this development might not fit within the usual criteria the Board saw, but he believed there was a hardship because these parcels were difficult to develop and to do otherwise would probably result in development that was inconsistent with what was happening in other parts of Fort Lauderdale.

Mr. Stresau asked Mr. Battle to describe the antiquated zoning codes that affected this property. Mr. Battle said the zoning was antiquated in the sense that the neighborhood used to be commercial development, but the neighborhood had changed in the last 15 to 20 years, and most newer projects had needed to request a zoning change to meet the consistency desired by the CRA.

Mr. Willey asked what the hardship was, stating he had a problem with the fact that the CRA could not design property to conform to the City's codes. He noted that this Board had required developers to remove building fronts to comply with setback requirements. For the Board to approve this type of request, the applicant must show that there was a non-economic hardship.

Mr. Battle said the hardship was philosophical. He explained that a hardship for the CRA meant a development might be in conflict with what the CRA had been trying to create in a neighborhood for the past 10 years.

Mr. Battle informed Mr. Larson that the development had been commercial and abutted single-family housing.

Chair Strawbridge thought the units could be built in a different form with back-out parking on both street frontages, and they were offering a project that would have improved street character and be more in keeping with the City's Master Plan. Chair Strawbridge explained that the residential development on the 6<sup>th</sup> Street corridor between Victoria Park Road and Andrews Avenue had homes with 10 and 15-foot setbacks.

Chair Strawbridge noted the "jumble" of residential and commercial property on this street that was the result of antiquated zoning. This neighborhood had not received amendments to the zoning code that would allow it to enact its own Master Plan.

Chair Strawbridge pointed out that the CRA district was 84% rental occupied, and it was imperative to encourage home ownership to get the neighborhood back in balance. He

added that there were many non-conformities in the CRA compared to the rest of the City. Because City staff was still “working on their to-do list” from the 1994 Code rewrite, Chair Strawbridge thought the Board of Adjustment might be called upon to help the CRA to sensibly redevelop this neighborhood.

Mr. Stresau asked Mr. Battle to explain why the buildings could not be moved back onto what appeared to be vacant property. Mr. Battle explained that there must be a buffer between this development and the adjacent single-family development. The space to which Mr. Stresau referred would be used for dumpsters and service vehicles. Mr. Burgess explained that the zoning was CB. Mr. Stresau and Mr. Dunckel pointed out that the application stated the zoning was RMM-15. Mr. Battle confirmed that this site was zoned RMM-15. Mr. Stresau asked why the units could not be moved back 15 feet. Mr. Battle said this was “one half of two wholes” that would have aligned driveways.

Mr. Stresau referred to the survey, which depicted a five-foot sidewalk between the property line and the edge of the curb on Northwest 6<sup>th</sup> Street, but noted that the site plan showed a sidewalk and another six to eight feet to the road. Mr. Stresau wondered if the City was planning on moving the existing curb, which would affect the landscape plan. Mr. Battle explained that the sidewalk would be extended when the Sistrunk Redevelopment Project was accomplished. This had not been designed yet

Mr. Stresau said street trees were essential along residential neighborhoods, but the Board could not tell from these plans if trees could be put in the right-of-way. He was not willing to approve a variance that would not allow sufficient space to provide vegetation between the housing and the street.

Mr. Willey wondered how, after spending 30 years to improve Sistrunk, they would shorten the distance from the front doors to the street. He wanted to determine if there was a way to get the proper frontage.

Mr. Goldman remarked that this development looked like town house projects being built in his neighborhood on Northeast 6<sup>th</sup> Street. He felt the hardship was that the development was being built to comply with the future Master Plan for Sistrunk Boulevard. Mr. Battle explained that the Master Plan for the area had been adopted in December and they had not presented the zoning issues yet, but this was in progress. Mr. Goldman felt if there was some zoning in progress to change the setbacks to conform with the Master Plan, it would alleviate some concern.

Mr. Dunckel reminded the Board that the Master Plan did not override the zoning code. The zoning code would eventually be amended.

Mr. Jordan wanted to encourage development on the street, and felt they might need to compromise.

Chair Strawbridge asked Mr. Battle if this had been presented to the neighborhood association. Mr. Battle said when this project was presented, the neighborhood supported it and looked forward to the redevelopment.

Mr. Weihe agreed with Mr. Jordan, and thought this represented a positive step. Mr. Larson agreed, but wanted to move the buildings back to 15 feet and thought there was room for this.

Chair Strawbridge advised Mr. Battle to consider other opportunities and return to the Board to explain why these must be ruled out. He added that if they determined a reduction on which they could all agree, the Board could vote on it this evening. Mr. Dunckel reminded Mr. Battle that if the Board denied the request this evening, they must wait two years to re-apply. Mr. Battle was aware of this, and wanted to take Chair Strawbridge's advice to return in 30 days.

**Motion** made by Mr. Stresau, seconded by Mr. Goldman, to defer items 1 and 2 to the Board's April meeting. In a voice vote, motion passed 7 - 0.

Mr. Stresau advised Mr. Battle to bring the Sistrunk Master Plan when he returned, and some explanation of the curb location.

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**2. APPEAL NO. 07-48** *(Deferred from February 13, 2008 meeting)*

**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 6<sup>TH</sup> 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 April meeting.

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**3. APPEAL NO. 08-05** *(Deferred from February 13, 2008 meeting)*

**APPLICANT:** Jerry Lobel

**LEGAL:** "Amended Plat of Portions of Lauderdale Manor Addition," the W. 46.52 ft. of Lot 12, together with the E. 43.48 ft. of Lot 13, Block H; "Chateau Park Section-B," P.B. 31, P. 26, Block 158

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

**STREET:** 1241 W. Sunrise Boulevard

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Section 47-18.3.A (Automotive sales dealer, rental agency, new or used)

Requesting a variance to allow an Auto Rental Agency on a 90-foot wide lot, where the Code requires a minimum lot width of 100 feet for an Auto Rental Agency.

Craig Bencz, engineer and representative of the applicant, drew the Board's attention to an aerial photo depicting the property, and explained the zoning was B-1, allowing higher intensity commercial uses. Mr. Bencz explained that this specific use – auto sales and/or rental - required the minimum lot width.

The Board examined aerial photos of the area, and Mr. Bencz described several auto businesses in the vicinity. The site had many uses over the years, all of them auto-related. Mr. Bencz stated prior to 1996, there was no minimum lot width for this use, in this district. He noted that the nature of the vehicle rental business had changed, from larger inventories serving large facilities such as airports, to smaller facilities in communities. The site plan for this property had 20 spaces for cars, sufficient for Enterprise's needs. Mr. Bencz informed the Board that additional storage was available two miles away in an overflow lot.

Regarding Criterion 1, Special considerations preventing reasonable use, Mr. Bencz believed the surrounding auto-oriented businesses limited the site to compatible uses. He said Enterprise had unsuccessfully approached adjacent property owners to gain additional land to meet the lot width requirement.

Regarding Criterion 2, Circumstances causing the special conditions peculiar to the property, Mr. Bencz stated the property had been this size and configuration since the 1960s with similar or more intense uses.

Regarding Criterion C, Literal application of the ULDR depriving the applicant of the use enjoyed by other owners in the district, Mr. Bencz said the property could not carry the intended use without the variance, and no other properties were available in the vicinity that met the company's criteria. The use patterns in the area were also complementary and compatible with Enterprise's operation.

Regarding the Criterion that the hardship not be self-created, Mr. Bencz said the property had existed in this configuration, with auto-oriented uses since the 1960s, and the variance was necessary to continue in this use.

Regarding the Criterion that the variance should be the minimum necessary for reasonable use of the property, that the use was in harmony with the ULDR and compatible with the surrounding community, Mr. Bencz stated 10 feet was the minimum needed to meet the code, and the site plan met all other requirements. The proposed use would be low impact on the community and be compatible with surrounding uses.

Chair Strawbridge asked if the variance could be specific to this corporate operation, with this use. Mr. Bencz agreed to this stipulation.

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. Dunckel said if the Board wished a condition to be attached to the variance that it would expire if Enterprise "ceased being Enterprise," as Chair Strawbridge suggested, he typically asked the applicant to waive any right to appeal or challenge that condition, for itself and successors and assigns. He noted that if the property were conveyed to another company, that company could appear to request its own variance.

Mr. Stresau wanted to tie the variance to this site plan, to prevent the addition of parking spaces or the reduction of landscaping.

Mr. Carbonell said he would not object, provided the air conditioning unit not be visible to the street or neighbors. This would mean using a split system instead of a package unit in the wall. Chair Strawbridge believed the builder could locate the air conditioner anywhere on the building. Mr. Bencz said this was one reason they had flipped the building, to orient the air conditioner at the rear of the property.

The Board discussed restricting the variance to Enterprise, or just to any car rental agency, and Mr. Bencz reiterated that the applicant agreed to limiting the variance to Enterprise.

**Motion** made by Mr. Stresau, seconded by Mr. Willey, to approve, with the applicant's site plan, and specifically for the use of Enterprise Rental Car.

Mr. Dunckel swore in a representative for Enterprise, who agreed to the conditions of the variance, and legally waived, for Enterprise and also for its successors and assigns, any right of appeal or right to challenge those conditions.



In a roll call vote, **motion passed 7 - 0.**

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#### **4. APPEAL NO. 08-07**

**APPLICANT:** TRG New River II, Ltd.  
**LEGAL:** "Town of Lauderdale," P.B. "B", P. 40, Block 41, Lots 18 & 19  
**ZONING:** RAC-CC (Regional Activity Center- City Center District)  
**STREET:** 2 South New River Drive  
**ADDRESS:** Fort Lauderdale, FL

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

Requesting a special exception to allow the sale of alcohol at a distance of 277 feet from another establishment (The Downtowner) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sells alcoholic or intoxicating beverages.

Chair Strawbridge stepped down while this case was heard. Vice Chair Larson assumed Chair responsibilities and Mr. Weihe sat on the Board for this case.

Andrew Russo, proposed owner of the Hideaway Cigar Bar, said the property was formerly a nightclub. He wished to operate the cigar bar and a retail shop in the location.

Mr. Dunkel clarified that under Section 5-26(b), the sale of alcohol must be incidental to the sale of food. Mr. Russo said there was no food service. Mr. Dunkel advised him to reapply under Section 5-26(a) for a variance. This must be re-advertised as well.

**Motion** made by Mr. Weihe, seconded by Mr. Jordan, to defer this item to the Board's April meeting. In a voice vote motion passed 7 - 0.

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#### **5. APPEAL NO. 08-08**

**APPLICANT:** G.4.A Holdings Corp.  
**LEGAL:** "Croissant Park South River Section," P.B. 8, P. 20, Block 43, Lots 7 and 8  
**ZONING:** RM-15 (Residential Low Rise Multifamily/Medium Density)  
**STREET:** 1300 SW 4<sup>th</sup> Avenue  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-19.2.H (Accessory Buildings and Structures, General – Driveways)**

Requesting a variance to allow for 13 feet 2 inches driveway length, where the Code requires a minimum of eighteen (18) feet in length when used as a stacking or a parking space.

Mr. Carbonell stepped down while this case was heard. Mr. Weihe replaced Mr. Carbonell for this case.

Mr. Robert Leeka, architect, admitted he had missed the stacking requirement when he designed the plans. Mr. Leeka proposed modification to the plan extending the sidewalk five feet to accomplish the 18-foot driveway. This would provide a five-foot sidewalk and a five-foot landscape buffer to the street.. He said the Engineering Department had already approved this change.

Mr. Leeka clarified for Mr. Stresau that the Engineering Department had approved this “in concept, it was just a sketch that we discussed; what you see before you is what they approved. It hasn’t been formalized.” Mr. Stresau stated, “Well I guess then, they’re going to get to come talk to us if they don’t approve it, right?”

Mr. Goldman noticed that the site plan showed a 13’2” setback, and the survey showed a 12.95’ foot setback. Chair Strawbridge explained that the variance might not be sufficient to pass final inspection; the property might be short a couple of inches. He advised Mr. Leeka to consider applying for a greater variance, but he must return at a later date, because the request had not been advertised for this. He also recommended Mr. Leeka bring documentation from the Engineering Department confirming its approval.

Mr. Stresau said he had been in conflict with the Engineering Department regarding the fact that many new houses being built did not provide the required swale for storm water runoff. Mr. Leeka’s plan substantially invaded the area that would have provided swale. Mr. Stresau wanted the Engineering Department to confirm that the swale area being displaced by the new sidewalk encroachment was made up in the adjacent swale areas.

Mr. Goldman asked when the City notified Mr. Leeka of the problem. Mr. Leeka said they were notified at the final CO inspection, and they only had a Temporary Certificate of Occupancy. Mr. Goldman asked why people were living in a house without a CO, as evidenced by the cars parked at the property.

Chair Strawbridge opened the public hearing.

Bruce Hugman, neighbor, said the swale question was moot because there was a storm drain on the property corner. Mr. Hugman stated people already living at the property

parked on the swale and lawn, packing the turf and slowing water absorption. Mr. Hugman said at night, residents parked across the driveway and into traffic lanes because there was inadequate parking. Mr. Leeka confirmed that the project met code requirements for parking. Mr. Stresau said this was a Code Enforcement issue.

Pat Kublin, neighbor, pointed out that the trees must be removed to accommodate the sidewalk extension. Chair Strawbridge explained that the property must still meet landscape requirements.

Ralph Clark, neighbor, agreed people were living at the house. He feared the change proposed would interfere with traffic. Chair Strawbridge explained that the change did not change the road configuration.

Chair Strawbridge closed the public hearing and brought the discussion back to the Board.

**Motion** made by Mr. Stresau, seconded by Mr. Goldman, to defer this item to the Board's April meeting. In a voice vote, motion passed 7 – 0.

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## **6. APPEAL NO. 08-09**

**APPLICANT:** Beach Boys Plaza, Inc.

**LEGAL:** Re-Amended Plat of Block A and 2 of the amended plat of Las Olas by the Sea, P.B. 1, P. 16, Block 2, Lots 1, 2 & 3. **TOGETHER WITH:** That portion of the S ½ of Palm Drive lying N and adjacent to said Lot 1

**ZONING:** ABA (A-1A Beachfront Area)

**STREET:** 413 S. 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 115 feet from an establishment (Sandbar) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

Mr. Les Stevens, representative of the owner and tenant, explained that the tenant business, Greek Express, had opened in December 2007 and at that time, the nearby Sandbar Restaurant was closed, but its alcohol permit was still in effect. The Sandbar alcohol license was due to expire at the end of March and Mr. Stevens assumed it would be extended, since a new restaurant had opened there. Mr. Stevens stated this met the intent of the ABA zoning.

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. Dunckel noted that the notice made reference to lots 1, 2 and 3, but Greek Express did not occupy all of these. Mr. Stevens confirmed that Greek Express only occupied 413.

Mr. Stevens clarified that Beach Boys Plaza owned the alcohol license for the Oceanside Café [formerly The Sandbar] restaurant, and his packet included letters from the owner and tenant stating there was no objection to the special exception. Board members could not locate these letters, and Mr. Stevens distributed his copies.

**Motion** made by Mr. Goldman, seconded by Mr. Jordan to approve. In a roll call vote, motion passed 7 - 0.

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## **7. APPEAL NO. 08-10**

**APPLICANT:** 101 Coconut Investments, LLC  
**LEGAL:** "New Utopia", P.B. 8, P. 21, Lots 6, 7 and 8  
**ZONING:** RS-8 (Residential Single Family Low Medium Density District)  
**STREET:** 101 SW Coconut Drive  
**ADDRESS:** Fort Lauderdale, FL

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

Requesting a variance to permit a six (6) foot high wall to be constructed along the front and corner property lines, where the Code requires a minimum average of a three (3) foot setback from the property line along a street.

### **APPEALING: Section 47-19.5.B - Note G.1.a.i (Sight visibility triangle)**

Requesting a variance to permit a six (6) high wall to be constructed within a sight triangle, where the Code permits a wall to be maximum of two and one half (2½) feet in height when located within a sight triangle.

### **APPEALING: Section 47-19.5.B - Note G.1.ii (Waterway visibility)**

Requesting a variance to permit a six (6) foot height wall within ten (10) feet of the edge of the waterway, where the Code permits a wall to be a maximum of two and one half (2½) feet in height when located within ten (10) feet of the edge of the waterway.

Robert Lochrie, representative of the owner, showed an aerial photo of the area and explained where the property was located. He described work done in the area to prohibit vehicular traffic and create a Greenway adjacent to this property.

Mr. Lochrie noted that even though this was called a street, since there was no vehicular traffic, it did not serve as a street. Mr. Lochrie showed where the wall would be located on the property.

Mr. Lochrie explained that walls were required to come down in height near the water to allow a corridor view, but to the west, the wall would only affect the view across the applicant's property.

Mr. Lochrie stated the adjacent property was under consideration for a park area. This would mean increased activity at that property, and this was another reason the applicant wanted the security of a wall at the property line.

Mr. Lochrie said the hardship had been caused by the City's turning the street into a greenway, changing the nature and character of the adjacent street.

Mr. Carbonell thought the first two variances were logical, and asked if the third variance requested a six-foot wall instead of an open fence to the water line. Mr. Lochrie confirmed this was the request.

Mr. Larson suggested lowering the last eight or ten feet of fence near the water, and topping it with a type of fencing that would allow an open view while providing security. Mr. Lochrie did not object to this. Chair Strawbridge stated the code required stepping down to 30" to 10 feet back from the waterway.

Chair Strawbridge opened the public hearing.

Mr. Joe Bellavance, neighbor, felt "a six-foot wall from one end to the other is too much." Mr. Bellavance opposed the variance requests.

Brian Ross, neighbor, asked for clarification about the proposed wall's location.

Chair Strawbridge closed the public hearing and brought the discussion back to the Board.

Chair Strawbridge asked what hardship would be created for the owner if the wall were built with the proper setback. Regarding the second request, Chair Strawbridge said he also had very strong feelings about the view corridor, and he was in total agreement with the code. If they entertained any additional height, he wanted the material to be "extremely transparent."

Chair Strawbridge pointed out, "As much as the property owner has a right to enjoy the lateral views down the waterway, so do those who are occupying the adjacent property." He felt they owed it to the community to maintain as much view as possible.

Mr. Lochrie stated the code referred to streets, not right-of-way. He said the applicant wanted the wall at the property line rather than giving the three-foot setback to a public area for which the applicant would still be responsible and liable. Mr. Lochrie agreed the applicant would plant additional landscaping outside the wall to further improve the greenway.

Mr. Carbonell explained that when the code was changed, the intent was "to create a hedge to soften the look of a wall between the sidewalk and a wall." Since there was no sidewalk here, he felt the buffer was desired between private property and a public park.

Mr. Stresau had been on the committee that created the new fence and wall code, and distributed to Board members a rendering of "what I think the intent of the code was when we said 'an average of three feet' because it does allow you to put the wall on the property line as long as in other places, you set back the wall so that the distance that you give up in some places, you can gain back and therefore utilize your property to the maximum extent." He felt this solved the problem of the first appeal and the sight visibility issue. It provided privacy to the homeowner on the patio and left some property the applicant could landscape on the public side of the wall.

Mr. Lochrie agreed this design would make sense if this was a street, but the greenway was not a street. The variance request was therefore appropriate.

Mr. Lochrie withdrew the Section 47-19.5.B - Note G.1.ii (Waterway visibility) request.

**Motion** made by Mr. Stresau, seconded by Mr. Willey, to approve the variance for Section 47-19.5.B, Fences, walls and hedges, to permit a six-foot wall to be constructed along the side yard adjacent to the public park, excluding the 10 feet adjacent to the sea wall. In a roll call vote, motion passed 7 – 0.

Mr. Lochrie agreed his client would work with the Parks Department and make a contribution toward lighting in the park.

**Motion** made by Mr. Stresau, seconded by Mr. Larson, to approve the variance for Section 47-19.5.B - Note G.1.a.i , Sight visibility triangle, to permit a six-foot high wall to be constructed within a sight triangle. In a roll call vote, with Mr. Jordan and Chair Strawbridge opposed, motion passed 5 – 2.

Mr. Jordan said the neighbors wanted the site triangle on the street side, but Chair Strawbridge pointed out that the Oak tree on the property prevented this. Mr. Jordan had visited the property, and noted the street was narrow and the wall would affect visibility for people exiting the park.

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**8. APPEAL NO. 08-11**

**APPLICANT:** Douglas Feirstein

**LEGAL:** C.J. Hector's Resubdivision of Rio Vista," P.B. 1, P. 24, Block 4, Lot 3

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

**STREET:** 1118 N. Rio Visa Boulevard

**ADDRESS:** Fort Lauderdale, FL

**APPEALING:** Section 47-19.2.BB.1 (Accessory building and structures, general)

Requesting a variance to allow the installation of a spa to encroach into the side yard setback 4.33 feet from the side property line, where Code requires five (5) feet from the property line.

Mr. Don Dillman, the pool contractor, stated the pool encroached 8" into the setback. He believed the code was vague regarding whether the setback was from the property line to the pool edge or to the water line. He confirmed for Chair Strawbridge that the pool was 8" off plans; this was an oversight in the field.

Mr. Burgess confirmed the setback for the pool was stated in the ULDR as "to the back of the coping," but prior to 1997, the setback was "to the water line."

Mr. Dillman noted there was a five-foot concrete fence around the property.

Mr. Stresau said that while the coping might encroach into the setback, he did not believe it hurt the adjacent neighbor. Chair Strawbridge felt asking the homeowner to remove the encroachment would be an undue hardship in relation to the degree of encroachment.

**Motion** made by Mr. Larson, seconded by Mr. Goldman, to approve. In a roll call vote, motion passed 7 – 0.

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

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There being no further business to come before the Board, the meeting was adjourned at **9:30 p.m.**

Chair:

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Chair Scott Strawbridge

Attest:

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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.

Minutes prepared by: J. Opperlee, Prototype Services