

**Board of Adjustment Meeting
City of Fort Lauderdale
Wednesday, May 14, 2008 – 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 6/2007 through 5/2008	
		<u>Present</u>	<u>Absent</u>
Scott Strawbridge, Chair	A	9	3
Don Larson, Vice Chair	P	11	1
Gus Carbonell	A	11	1
Diane Centorino	P	9	3
David Goldman	P	11	1
Gerald Jordan	P	10	2
Bruce Weihe	P	10	2
Birch Willey	P	12	0
 <u>Alternates</u>			
Michael Madfis	P	1	0
Henry Sniezek	P	1	0

Staff

Bob Dunckel, Assistant City Attorney
Yvonne Blackman, Secretary
Terry Burgess, Chief Zoning Examiner
B. Chiappetta, Recording Secretary, ProtoType Services

Guests

Alfred Battle, Fort Lauderdale CRA Director, 07-47
Janice Hazel, 07-48
Robert Leeka, 08-08
Courtney Crush, 08-13
Jonathan Gudlach, 08-13
Todd Gilliam, 08-14
Don Zimmer 08-15
Ray Dumar, 08-18
Don McCloskey, 07-15
Alan Tinter, 07-15
Reverend White, 08-15
Nectaria Chakas, 07-26

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Call to Order

Vice Chair Larson called the meeting to order at 6:33 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. Willey, seconded by Mr. Jordan, to approve the minutes of the Board's April 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. Madfis joined the Board in Mr. Carbonell's absence.

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1. APPEAL NO. 07-47 (Deferred from April 9, 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 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.

Mr. Alfred Battle, Community Redevelopment Agency Director, reminded the Board that at his last appearance, the Board had concerns regarding the setbacks and the compatibility with the proposed streetscape improvements on Sistrunk Boulevard.

Mr. Battle reported that since his last appearance, the setbacks had been changed to 15 and 20feet [from 10 and 15 feet] to address the Board's concerns. Mr. Battle showed a rendering of the property, and said they would try to overlay the site.

Mr. Battle clarified that one of the parcels in the project belonged to the CRA and was being conveyed to the developer. Mr. Battle explained that moving the building back would allow them to install a row of oak trees in the right-of-way along Sistrunk Boulevard. He said they planned to heavily landscape the frontage along Sistrunk with trees, and to widen the sidewalk to 12 feet.

Mr. Battle offered letters of support the developer had received from the homeowners association.

Mr. Larson asked how changing the setback affected the back of the building. Mr. Battle said there would still be a wall between the project and the adjacent single-family property, but the drive-through space would be reduced.

Mr. Willey noted that the agenda indicated the request was for 10 and 15-foot setbacks. Mr. Battle stated this was incorrect; the plans had been revised. Mr. Dunckel advised the Board to indicate the specific setbacks in their motion.

Mr. Madfis asked Mr. Battle to cite the specific variance criteria pertinent to this request. Mr. Battle explained that without the variance, the project would require a zoning change. Mr. Battle said the hardship had been imposed on the developer by the City's encouragement to the developer to build a project it knew did not meet current code. He explained that the City was in the process of re-zoning the entire CRA area, but this project was being built in advance of this rezoning.

Ms. Centorino wondered why it was not desirable to locate the building with the proper setbacks. Mr. Battle explained that they desired to accommodate parking behind the building, and they were treating Sistrunk as an urban, pedestrian-friendly thoroughfare.

Mr. Madfis was concerned that people would park in the front yard if there was sufficient room, and felt it would be better to reduce the setback to five to ten feet. Vice Chair Larson said the Board had been concerned about this, but he felt this would be prevented by the shrubbery and the wide sidewalk.

Mr. Willey said the Board had been disappointed that the City could not meet the 25-foot code-required setback. He asked if the building could not be moved back another 10 feet.

Mr. Goldman remembered the Board's discussing whether the design could be improved by allowing a smaller setback. He recalled that the Board had directed Mr. Battle to move the project back five feet to meet their approval, and felt they were now giving Mr. Battle a "moving target."

Vice Chair Larson opened the public hearing. There being no 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.

Mr. Dunckel advised the Board that they might want to include the new landscape concept as a condition of approval to attach to their motion. Mr. Burgess advised that the minimum height for oak trees in the right-of-way was 12 feet.

Motion made by Mr. Weihe, seconded by Mr. Jordan, to approve the request to allow a 15 foot and 20-foot front yard, where Code requires a 25 foot front yard, with the condition that the project include the new landscape concept, in keeping with the City's landscape requirements. In a roll call vote, with Mr. Willey, Ms. Centorino and Mr. Madfis opposed, motion **failed** 4 – 3.

Later in the meeting, Mr. Willey had second thoughts about his vote and requested reconsideration.

Motion made by Mr. Madfis, seconded by Mr. Goldman, to reconsider the Board's previous vote. In a roll call vote, motion passed 7 – 0.

Motion made by Mr. Weihe, seconded by Mr. Jordan, to approve the request to allow a 15 foot and 20-foot front yard, where Code requires a 25 foot front yard, with the condition that the project include the new landscape concept, in keeping with the City's landscape requirements. In a roll call vote, with Mr. Madfis opposed, motion passed 6–1.

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2. APPEAL NO. 07-48 *(Deferred from April 9, 2008 meeting)*

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

LEGAL: "River Gardens", Block 2, Lots 1,2,3,4,5 & 6, Said parcel being more 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 10-foot and 15-foot front yard, where Code requires a 25 foot front yard.

Ms. Janice Hazel, representative of the applicant, remarked that this project was in line with the City's plans for the rest of Sistrunk Boulevard over the next five years. She stated the neighborhood loved this project and considered it a catalyst for redevelopment of the entire Sistrunk corridor. Ms. Hazel stated in five years, all of Sistrunk would look like this project.

Ms. Hazel confirmed for Vice Chair Larson that this project, like the previous one, had been redesigned to have 15 and 20-foot setbacks [instead of 10 and 15-foot].

Mr. Madfis did not feel it was the position of the Board of Adjustment to be analyzing site plans. He believed the City and the CRA should have been working on rezoning these areas ten years ago so projects such as this could move ahead. Mr. Madfis felt bound to uphold the criteria for granting a variance, even though he sympathized with the applicants.

Vice Chair Larson opened the public hearing. There being no 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. Weihe, seconded by Mr. Jordan, to approve the request to allow a 15 foot and 20-foot front yard, where Code requires a 25 foot front yard, with the condition that the project include the new landscape concept, in keeping with the City's landscape requirements. In a roll call vote, with Mr. Madfis opposed, motion passed 6-1.

Mr. Willey noted the number of times the Board was asked to approve a request because some rule, plan or ordinance would soon change, and urged that these changes be implemented.

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3. APPEAL NO. 08-07 *(Deferred from April 9, 2008 meeting)*

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(a) (Distance between establishments)

Requesting a variance to allow 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.

[This item was taken out of order]

Vice Chair Larson informed the Board that the applicant had requested this item be deferred to the Board's June meeting.

Motion made by Mr. Weihe, seconded by Ms. Centorino, to defer Item 3 to the Board's June meeting. In a voice vote, motion passed 7 – 0.

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4. APPEAL NO. 08-08 *(Deferred from April 9, 2008 meeting)*

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 4th 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. Robert Leeka, representative of the applicant, reminded the Board of their discussions in April, when the Board advised that if the sidewalk were moved out an additional five feet, they would look favorably upon this request. Mr. Leeka stated they had redesigned the driveway by “bumping out” the sidewalk five feet. The Engineering Department and Planning and Zoning had both approved this.

Ms. Centorino was concerned that vehicles currently in the driveway must intrude into the sidewalk, and wondered how this error had occurred. Mr. Leeka stated the original plan’s setbacks had been “overlooked” by the architect and “other people down the line.” Mr. Leeka confirmed that the design was intended to park one car in the garage and another in the driveway. Ms. Centorino and Mr. Weihe pointed out that the garage and its door seemed too small to accommodate a car.

Mr. Leeka explained that the sidewalk would now veer off to allow pedestrians to avoid the driveway.

Vice Chair Larson opened the public hearing.

Mr. Ralph Clark, neighbor, said the town houses faced 13th Street, not 4th Avenue, so the setbacks should match others on 13th Street: 25 feet. He added that people had occupied the building prior to the issuance of a Certificate of Occupancy. Mr. Clark said the neighbors in Croissant Park had worked to make this an attractive street, and they were not pleased with this project on the whole.

Mr. Burgess said, “The way we look at a town house group is, the front yard would be on the corner... And you have a rear yard, and then the long yard is the corner yard, and then you have a side yard. So basically, the way it’s designed, elongated, the front yard would be on the short side of the street because they’re 50-foot lots.” Mr. Jordan agreed with Mr. Clark, and felt the houses should have addresses matching their front entrances. Mr. Goldman noted that the legal description on the survey included a 13th Street address. Mr. Burgess stated there was no way to build on the lot otherwise.

Mr. Madfis asked for clarification of whether this was a duplex or a town house. Mr. Leeka stated this was a two-family dwelling, and Mr. Burgess stated it was on one lot and was not fee simple.

Ms. Pat Hubland, neighbor, referred to a letter she had written regarding this case, and noted that only a Mini Cooper or Smart Car could actually fit in the existing driveway. She stated this was a community, and she wanted the neighborhood treated with respect. Ms. Hubland informed the Board that the property was already deteriorating for lack of care.

Mr. Goldman asked Ms. Hubland’s feelings about the proposed change. Ms. Hubland felt this would be a “lesser evil.”

Mr. Dunckel wondered if moving the sidewalk would alter the elevation and put the sidewalk lower, risking flooding. Mr. Leeka said their idea was to dip the five-foot area between the sidewalk and the street to avoid this. He admitted they had not actually addressed drainage issues yet.

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.

Ms. Centorino felt no one would actually use the garage and wondered if the garage projection could be removed. Mr. Leeka stated this would make the garage not meet the 18-foot code requirement. Mr. Madfis suggested recessing the garage door and pushing the garage back into the living space behind it. Mr. Leeka said this would severely impact the project and was not a viable solution. Mr. Willey asked if the units must have the garages. Mr. Burgess explained that the parking requirement was 2.25 parking spaces per unit, so if the garage were removed, other parking must be identified.

Motion made by Mr. Goldman, seconded by Mr. Jordan, to approve, based on the drawings submitted, to accommodate an 18-foot long driveway, contingent upon final engineering to make sure the sidewalk would be at the proper elevation. In a roll call vote, motion passed 7 – 0.

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5. APPEAL NO. 08-13 *(Deferred from April 9, 2008 meeting)*

APPLICANT: London Associates Ltd.

LEGAL: “Progresso”, P.B. 2, P. 18. All block 312, Lots 1-16. Blk 313 less State Rd & that portion vac NE 6th lying between Lot 33 to 48, Blk 312 & 313 & E ½ of vac NE 6 Terr lying W & adjacent to lots 26 to 32 Blk 312 per ord C-01-31 or 31934/1400

ZONING: CB (Community Business District)

STREET: 638 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 of food at a distance of 219 feet from an establishment (Winn Dixie Liquor store) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

Mr. Dunckel explained that in this case, the applicant need not prove the requirements for a hardship. The standard in this case was to grant the special exception unless it could be demonstrated that granting it was contrary to the public interest.

Ms. Centorino reported that on her visit to the property, she could not locate signage. Ms. Courtney Crush, representative of the applicant, explained where the signs were located.

Ms. Crush said this was the second restaurant run by this proprietor, and he wanted to offer the same menu at both locations, including beer and wine for lunch and dinner. She explained that the café was 219 feet away from the Winn Dixie Liquor Store.

Ms. Crush noted the standard for a special exception was compatibility and the public interest, and informed the Board that the owner of the shops supported this request and there would be no negative impact to the public interest.

Mr. Goldman stated he lived in the area, and agreed there would be no negative impact.

Vice Chair Larson opened the public hearing. There being no 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. Weihe, seconded by Mr. Jordan, to approve. In a roll call vote, the motion passed 7 - 0.

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6. APPEAL NO. 08-14 *(Deferred from April 9, 2008 meeting)*

APPLICANT: Todd Charles Gilliam

LEGAL: "Boulevard Park Isles Section One", P.B. 50, P. 6, Lot 29

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

STREET: 1620 NE 63rd Court

ADDRESS: Fort Lauderdale, FL

APPEALING: **Section 47-19.2.P (Freestanding shade structures)**

Requesting a variance to allow a free-standing shade structure (tiki hut) that is 392 SF in the required rear yard, where Code stipulates that such structures shall not exceed 200 SF when located in the required yard.

Mr. Todd Gilliam, applicant, explained that when he purchased the property, there was a permanent 322 square-foot awning. The awning had been lost during Hurricane Wilma and they had replaced it with a Tiki hut. Mr. Gilliam noted that none of his neighbors objected to the request.

Vice Chair Larson opened the public hearing.

Mr. Bill Mercer, neighbor, said this was a great addition to the Gilliam home and the neighborhood.

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.

Mr. Willey remarked, "I want to see the gentleman be able to keep what he's got, but I don't want anybody else to be able to do that." He wanted to limit the variance to Mr. Gilliam's ownership and residence at the property.

Mr. Dunckel asked Mr. Gilliam if he was willing to waive his right to appeal the restriction that the variance applied to him only, for himself and his successors and assigns. Mr. Gilliam agreed.

Mr. Gilliam informed Mr. Jordan that Florida Tiki Hut indicated no permit was needed to construct this. Mr. Jordan said, "Florida Tiki Hut, somebody should reprimand them because they're going around town telling people that you don't need a permit and then they get in trouble. I hope somebody slams them with a lawsuit someday and puts them out of business..."

Mr. Dunckel clarified that there was a provision in the Florida Building Code exempting the Seminole Indians from pulling a building permit, but they were not exempted from complying with the zoning code.

Motion made by Mr. Willey, seconded by Mr. Madfis, to approve, with the provision that the variance applied only as long as Mr. Gilliam owned and lived in the home. If he sold or stopped living at the property, the structure must be brought up to code or removed. In a roll call vote, motion passed 7 – 0.

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7. APPEAL NO. 08-15 *(Deferred from April 9, 2008 meeting)*

APPLICANT: Mount Hermon African Methodist Episcopal Church

LEGAL: "North Lauderdale", Parcels 4 and 6 (South ½). Said parcels being More particularly described in the application for a variance for Appeal No. 08-15, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment.

ZONING: RMM-25 (Residential Mid-Rise Multifamily/Medium High Density)

STREET: 401 NW 7th Terrace

ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-25.3.A.3.d.iv (Neighborhood compatibility requirements – Wall requirements)

Requesting a variance to allow the omission of the required five (5) foot high wall, where the code requires a wall to be constructed at a minimum of five (5) feet in height when a non-residential use is contiguous to any residential property.

Mr. Don Zimmer, project architect, declared there was no hardship, but the variance would be for the good of the community, and its health, safety and welfare. He showed the Board the property on the Elmo, and noted that part of the property was being re-zoned. The Planning and Zoning Board had already approved re-zoning from RMM-25 to B-2 to be compatible with the rest of the church's parking area.

Mr. Zimmer stated they wanted to omit the wall to eliminate a hiding space for criminals, and to avoid graffiti. He also believed the property would be more aesthetically pleasing without the wall.

Mr. Madfis recognized the hardship, based on the non-functional aspect of the adjacent RMM-25 lot. He believed this was the best solution that could be used.

Ms. Centorino said the Board had received a letter requesting that the hedges be no less than seven feet. Ms. Zimmer said the hedges were part of the code, and noted that the code required a minimum of 30 inches tall.

Mr. Jordan pointed out that new homes were being built on adjacent property to the north, and he felt there should be a buffer.

Vice Chair Larson opened the public hearing.

Mr. Salvatore Salamone, neighbor, was concerned about lights and noise from the parking area. He felt a wall would mitigate this, and desired that the wall be built. Mr. Weihe pointed out that this was the reason for requiring the wall in the first place.

Mr. Madfis wondered if the wall could be constructed on the side of the property that abutted private homes. Mr. Zimmer noted that Mr. Salamone's property did not abut the church property.

Reverend White, Pastor of the church, explained that the person who owned the adjacent property did not object to their request. He explained they wanted to maintain unity of church and community.

Mr. Jordan believed leaving out the wall would not help the neighborhood.

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.

Mr. Willey wanted a separate vote for each of the two walls.

Motion made by Mr. Willey, seconded by Mr. Weihe, to approve the variance for the L-shaped wall at the north end of the lot on the east side of the lot. In a roll call vote, motion passed 7 – 0.

Motion made by Mr. Weihe, seconded by Mr. Willey, to approve the variance for the wall on the north side of the parking area. In a roll call vote, motion **failed** 0 – 7.

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8. APPEAL NO. 08-18

APPLICANT: Boris Maroz, Charaf Investments of Florida

LEGAL: “First Addition To Lauderdale”, P.B. 2, P. 15, Block 15, Lots 3,4 & 5

ZONING: B-1 (Boulevard Business)

STREET: 817 SE 17th Street

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 235 feet from an establishment (Inlet Liquors) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

Mr. Dunckel reminded the Board that this was a request for a special exception, not a variance, and the burden was on the applicant to prove the sale of alcohol was incidental to the sale of food. If the Board determined that granting the special exception would not be contrary to the public interest, they must grant the special exception.

Mr. Ray Dumar, representative of the applicant, explained they currently had a 2-APS license, allowing sale of package goods, and they wanted a 2-COP license, allowing for alcohol consumption on the premises. Mr. Dumar assured the Board there would be no bar; the sale of alcohol would be incidental to the sale of food. He added that no objections had been submitted by any neighboring property.

Vice Chair Larson opened the public hearing. There being no 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. Goldman, seconded by Mr. Jordann, to approve. In a roll call vote, motion passed 7 – 0.

Rehearing

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9. APPEAL NO. 07-15

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. Dunckel reminded the Board that this was a request for a special exception. The request had been denied some months ago and Mr. McCloskey had requested a rehearing, which the Board had granted. Mr. Dunckel asked the Board to remember that the applicant must demonstrate that the sale of alcohol was incidental to the sale of food, and that granting the exception would not be contrary to the public interest.

Mr. Don McCloskey, representative of the applicant, explained that the sale of kosher wine and beer would be incidental to the sale of food. Mr. McCloskey reminded the Board that their concerns when the request was originally denied had centered on the parking issue. Mr. Alan Tinter had performed a parking study, and the Board had received a letter from Mr. Tinter and a map of the area.

Mr. Alan Tinter, traffic engineer, presented an aerial photo of the area, and stated his analysis had determined that there was sufficient nearby parking to meet the 25-space requirement. He explained that there was some parking available on the street, and also at the Chabad Lubavitch, within 700 feet of the site. There was also a public metered parking lot behind the business. He indicated that these parking spaces would be available for restaurant patrons during dining hours because the nearby businesses' "peaking hours" were different from the restaurant's.

Mr. McCloskey informed the Board that the restaurant was open from 11:00 am until 10:00 p.m. Sunday through Thursday. He confirmed there would be no bar or packaged goods sold. Mr. McCloskey said neither of the synagogues had voiced any objection, but he was aware that a couple of written objections had been sent.

Mr. Weihe asked if the parking was an issue this evening. Mr. McCloskey said it was not.

Mr. Jordan said he would object to this in his neighborhood because on Las Olas, they were attempting to limit the number of bars in the neighborhood.

Mr. McCloskey read the section of code pertinent to this type of special exception, and stated this would not be adverse to the neighborhood.

Mr. Willey remembered that when this case first came before the Board, parking had been an issue, and the applicant had needed a variance to obtain a Certificate of Occupancy to open the restaurant. The Board had been concerned that adding the sale of alcohol would add to the parking problems. Mr. Willey believed Mr. McCloskey should be requesting a variance for the parking and a special exception for the alcohol at the same time. Mr. Willey suggested the Board could grant the special exception for the alcohol sales with the caveat that it would not take effect until the applicant obtained a parking variance.

Mr. McCloskey said according to Mr. Tinter's analysis, they met the parking code. Mr. Burgess clarified that they must apply for a parking reduction in order to share the parking.

Mr. Dunckel stated the request for the parking reduction must be sought from the Planning and Zoning Board. Mr. McCloskey agreed to apply to the Planning and Zoning Board to seek the parking reduction.

Vice Chair Larson opened the public hearing.

Mr. Mahmoud Azadin, neighbor, stated he liked the restaurant, but there was a problem with the parking. He noted that patrons of the restaurant used the wrong spaces and were often towed. Mr. Azadin reminded the Board that the issue this evening was not the parking, but the proximity to houses of worship. He felt the code required distance from houses of worship for a reason, and asked the Board not to grant the special exception.

Mr. William Gilchrist, next-door neighbor, said Mr. Tinter had given "a nice presentation, but it doesn't match the facts on the ground..." He explained that every business in this area had only four spaces, and the only way the applicant had increased his parking was by "total disrespect for businesses in the vicinity, and just taking over their spaces at will." Mr. Gilchrist confirmed that cars had been towed because of this. Mr. Gilchrist stated, "A monster has been created already by giving a 40-seat restaurant a permit to open when it only has four parking spaces." He remarked on the increase in traffic that

would result if the restaurant were granted a liquor license. Mr. Gilchrist stated this request was not in the public interest and asked the Board to deny the request.

Mr. Kevin Saunger, neighbor, said he had worked with the rabbi for years and had a good relationship with him. He said he had been surprised that businesses had been permitted to move into the area without addressing parking issues.

Dr. Marvin Wolfman, neighbor, believed there was "an undercurrent of anti-Semitism" in what he had heard. He said he had spoken with nearby restaurant owners, and none of them had objected to this request. Dr. Wolfman felt there was no parking problem. Vice Chair Larson stated there had been no covert or overt anti-Semitic remarks or feelings on the part of the Board or the public this evening, and he resented Dr. Wolfman's remark.

Mr. Randy Liebig, neighbor, feared an increase in traffic and parking issues if the special exception were granted. He wanted the City to address the parking problem in this area.

Mr. McCloskey clarified that there was not a school in the area; there was Sunday School for two hours per week at the synagogue. Mr. McCloskey remembered when the Florida Department of Transportation [FDOT] had widened and reconfigured A1A. He insisted that only 20% of the metered parking spaces behind the shops were occupied at one time. Mr. McCloskey said if the Board granted the special exception, he would either request a parking reduction from the City or he would "try to convince staff and the powers that be that we do comply with the code."

Mr. McCloskey agreed to have an employee outside to monitor patrons' parking, if needed. Mr. Gilchrist said he had requested dozens of times that the restaurant do something to prevent its patrons from taking his parking spaces. He had been "ignored...called anti-Semitic" and been cursed and spat at by restaurant patrons.

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.

Mr. Dunckel reiterated for Mr. Weihe the requirements for a special exception, and noted that reasonable conditions could be attached to the exception.

Mr. Goldman reminded the Board that even though most of the discussion had focused on parking, the Board should be considering the distances between the restaurant and the houses of worship, and whether the exception would be detrimental to the community. He pointed out that they could add a condition that the exception was contingent upon the resolution of the parking issue.

Mr. Larson agreed with Mr. Azadin's remarks regarding the fact that the City had instituted a rule to separate alcohol-serving businesses from schools and houses of worship for a reason, and was concerned about violating this rule. He felt the parking issue would be worked out.

Mr. Madfis asked Mr. Dunckel if the Board found that the sale of alcohol was incidental to the service of food, and that the special exception would not be contrary to the public interest, could they declare the distance from the synagogue not an issue. Mr. Dunckel explained that they could grant the special exception, which would allow the restaurant to operate, notwithstanding the distance.

Mr. Madfis asked if the Board should be considering the parking issue. Mr. Dunckel believed the restaurant had not met the parking requirements and must pursue a resolution to this issue. Mr. Dunckel said the Board could "consider the failure to meet the parking as part of the formula being contrary to the public interest" and could attach the condition that the exception only took effect when the parking requirements were satisfied.

Mr. McCloskey confirmed for Mr. Willey that the Rabbi from the Chabad Lubavitch was part owner of the restaurant. The owner of the Sephardic Synagogue had appeared before the Board in support of the special exception, with the caveat that the exception would go away if the synagogue no longer owned the restaurant.

Mr. Jordan noted how this restaurant had grown to the point where it had become a nuisance to other businesses on the street. He advised the restaurant to forget about serving alcohol and continue as they were. He wanted the parking problem addressed so the other merchants could operate their businesses properly.

Motion made by Mr. Goldman, seconded by Mr. Willey, to approve, on the condition that the parking problem be legalized first. In a roll call vote, with Ms. Centorino, Mr. Jordan and Vice Chair Larson opposed, motion **failed** 4 – 3.

Request for Extension

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10. 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.

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.

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.

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.

Mr. Madfis recused himself from hearing this case and Mr. Sniezek joined the Board in his place.

[The Board took a brief break and reconvened]

Ms. Nectaria Chakas, representative of the applicant, requested an extension of the variances the Board granted in August 2007. She explained that the property had been

“plagued with a number of entitlement issues” that must be resolved. They had obtained final approval of the site plan and plat approval and recorded the plat, but needed the extension to secure the building permit.

Mr. Dunckel said he had been involved in some of the issues the applicant had confronted, and he believed the extension was warranted.

Motion made by Mr. Willey, seconded by Mr. Weihe, to approve the extension. In a roll call vote, motion passed 7 – 0.

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Report and For the Good of the City

There being no further business to come before the Board, the meeting was adjourned at **10:06 p.m.**

Chair:

Chair Scott Strawbridge

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.

Minutes prepared by: J. Opperlee, Prototype Services