BOARD OF ADJUSTMENT MEETING
City of Fort Lauderdale
Wednesday, July 9, 2008 – 6:30 P.M.
City Hall City Commission Chambers – 1st Floor
100 North Andrews Avenue
Fort Lauderdale, Florida

		Cumulative Attendance 6/2008 through 5/2009	
Board Members	**Attendance**	**Present**	**Absent**
Scott Strawbridge, Chair	**P**	**2**	**0**
Don Larson, Vice Chair	**P**	**2**	**0**
Diane Centorino	**P**	**2**	**0**
David Goldman	**P**	**2**	**0**
Gerald Jordan	**P**	**2**	**0**
Bruce Weihe	**P**	**2**	**0**
Birch Willey	**P**	**2**	**0**
Alternates			
Michael Madfis	**P**	**2**	**0**
Henry Sniezek	**P**	**2**	**0**
Karl Shallenberger	**P**	**2**	**0**

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

Index

Purpose: Sec. 47-33.1.
The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

Call to Order

Chair Strawbridge called the meeting to order at 6:36 p.m. He introduced the Board members and described the functions of the Board and procedures that would be followed for the meeting. Chair Strawbridge explained that a supermajority of the Board was required for a motion to pass.

Approval of Minutes

Motion made by Mr. Jordan, seconded by Mr. Larson, to approve the minutes of the Board's June 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.

Index

1. APPEAL NO. 08-19

APPLICANT: Mr. & Mrs. Orie Legum
LEGAL: **Lot 7, Block 24 of "Unit 3 Rio Vista Isles", according to the plat thereof, as recorded in P.B. 5, at P. 23 and amended plat thereof in P.B. 7, P. 47 of Broward County, FL, together with the Southerly ½ of vacated S. Rio Vista Blvd., lying immediately N. of and adjacent to said Lot. 7.**
ZONING: **RS-8 (Residential Single Family Low Medium Density District)**
STREET: **626 S. Rio Vista Boulevard**
ADDRESS: **Fort Lauderdale, FL**

APPEALING: **Section 47-5.31 (Table of Dimensional Requirements for RS-8 District)**
Requesting a variance to install a windmill (wind generator) at 66 feet in height, where the maximum height of a structure in the RS-8 District is limited to 35 feet, and requesting a 20-foot rear yard setback where the Code requires a 25-foot rear yard setback on the waterway.

Board members disclosed communications they had regarding this item.

Mr. Kaizer Talib, project architect, explained that the applicants wanted to install a wind generator in their backyard. Mr. Talib introduced expert witness Mr. Chelakara Subramanian, Professor and Program Chair of Mechanical and Aerospace Engineering at the Florida Institute of Technology in Melbourne, Florida. He informed the Board that Professor Subramanian taught and conducted research in aerodynamics and wind engineering. His research included the effects of roughness on wind turbulence, and he was an expert in wind tunnel testing and pressure and temperature instrumentation. Professor Subramanian had also been appointed to the Florida State Hurricane Research Program.

Mr. Talib gave a visual presentation, a copy of which is included with these minutes for the public record.

Mr. Talib referred to a site plan and pointed out where the generator would be located on the property. Mr. Talib stated the wind generator would be 66 feet high including the blades, and would be installed 5 feet away from the sea wall, which he had determined to be the best location for the generator to work satisfactorily. Mr. Talib explained that trees and buildings in the area were up to 40 feet in height. He showed a rendering of the generator on site, and stated it was a small unit, typically used for residential purposes.

Professor Subramanian explained that in order for the generator to work satisfactorily, it required a sustained wind speed of 8 meters per second, and in order to provide that speed, it must be 66 feet in height. He explained to Chair Strawbridge that the generator was designed to generate an average of 300 kilowatts hours of power. Chair Strawbridge asked if lowering the generator by 1 foot would cause it not to work, and Professor Subramanian replied it would not work satisfactorily, because it would not continuously turn.

Mr. Jordan asked, “Where is the report that says that you’ll get 8 mph sustained wind?” Professor Subramanian explained the Coastal Monitoring Project provided a coastal wind speed distribution chart. He stated this was an average annual wind speed. Chair Strawbridge asked what the average annual wind speed was at 65 feet. Mr. Talib stated the wind generator company and the data available on how the generator functioned without turbulence indicated that the generator should be 25 feet higher than objects in the immediate area. He noted that the generator was 60 feet tall, but the blades were another 6 feet high. He said if the blades were lowered by one or two feet it would still function, but this was the height they had selected for performance.

Mr. Talib clarified for Chair Strawbridge that the generator should be 25 feet taller than any obstructions in the area such as trees and buildings. Chair Strawbridge suggested if they built a one-story house, they could reduce the height of the generator by 10 feet. Mr. Talib pointed out that there were other buildings and trees within 250 feet that were 40 feet tall.

Mr. Weihe asked that Mr. Talib and Professor Subramanian be permitted to complete their presentation before answering questions.

Mr. Jordan said the reason he asked his question was, “None of this stuff makes sense… in our business you have to be a bit more technical… I don't see any backup information or anything.” Mr. Talib assured the Board that when they saw the charts in his presentation it would become clearer.

Professor Subramanian showed a graph depicting the variation of density with elevation above sea level and drew the Board's attention to the fact that there were differences in density at different heights. This was why the generator would spin faster at the specified elevation. Professor Subramanian referred to another chart that showed that obstructions created a wind wake, and explained that the generator must clear this wake by at least 20 feet in order to operate satisfactorily. Professor Subramanian informed the Board that this was scientifically proven and tested and was established fact. They had not pulled this number from thin air.

Chair Strawbridge questioned, “In this context, your definition of the word ‘satisfactorily’ is that below this level it will not function at all; that was your testimony, right?” Professor Subramanian replied, “It will not produce the power that we are hoping it to produce… what the generator is designed to produce.” Chair Strawbridge said he thought he heard Professor Subramanian state that it would not work at all, and asked if he had misunderstood. Professor Subramanian said in his opinion, in technical language, ‘work’ meant to produce something useful. He had meant that the generator would not produce anything useful.

Professor Subramanian referred to a diagram indicating the radiation of wind speeds, which explained why the generator must be located at that height. He reiterated that if there were any obstructions within a 250-foot radius, the wind would be obstructed. If the wind speed fell below 8 mph, the generator would not spin at all and would generate nothing: the generator required sustained wind and order to operate

Mr. Talib presented a bird fatality chart, because this question has come up the last time he had addressed the Board regarding a windmill installation. The chart showed that wind turbines caused .01% to .02% of bird fatalities, while communication towers caused 2.5%, vehicles caused 7%, and building windows caused 55%.

Professor Subramanian explained, in response to Mr. Jordan's question about where they came up with the wind speeds, that a chart from NOAA indicated this home was located in Class Two level, where average annual wind speed was approximately 12 mph. Mr. Jordan was having difficulty reading the chart, and asked where these readings had been taken. Mr. Talib explained that these readings were taken near the beach. Mr. Jordan asked where the readings were taken, and mentioned New York or Virginia. Mr. Talib stated the readings were taken along the Florida seaboard.

Professor Subramanian informed the Board that within 10 miles of the Florida coast, there was a Level 2 wind, which is what the chart represented. Mr. Weihe asked if there was a Florida map depicting this; Professor Subramanian replied that he had consulted a Florida map to create this chart.

Mr. Dunckel said that in his empirical experience, winds tended to be stronger on and near the water, and as one moved farther inland the wind decreased. He said he lived less than a mile from the beach, and there were times when he saw a 10 to 12 knot wind on the beach but the trees around his house were barely moving. He was curious about Professor Subramanian's statement that the Level 2 wind was 10 miles deep. He asked what proof Professor Subramanian had to support that statement. Mr. Dunckel said he had searched for a wind map of Florida on the Internet and discovered it did not exist.

Professor Subramanian explained that the coastal wind map applied to open terrain areas, with wind coming onshore from the sea, and it was coded at an altitude of 33 feet. He explained that when one came inland and encountered obstacles, the wind speed would decrease. This was why the chart indicated they needed to put the generator at 66 feet in order to get the same wind.

Professor Subramanian reiterated that they needed a sustained 8 mph of wind speed, and the average wind speed at the house was approximately 11 mph. He stated this was according to the charts; he had not performed an on-site study. Mr. Jordan said unless Professor Subramanian performed an on-site study, he did not know the average wind speed at that house.

Mr. Talib presented the national wind map, indicating that along the coast of Florida, the wind was Level Two. Chair Strawbridge said this was not the map Professor Subramanian said he had used to create the chart. Professor Subramanian confirmed that he had used the Florida specific map.

Professor Subramanian then referred to a sound chart indicating that the generator operated at 50 dB, which was less than a household appliance such as a dishwasher. He believed the noise was also lower than traffic sounds generated from US 1, which

was located near the house. Professor Subramanian admitted he had no training in audio technology.

Mr. Talib showed another diagram indicating why the generator should be located at 66 feet in height. Mr. Weihe asked if this information had come from the manufacturer, and Mr. Talib said the company had tested their generator, and their recommendations were made based upon these tests. Mr. Weihe remarked that the manufacturer was "in the business of selling windmills." Mr. Talib said they were "also in the business of selling the equipment so it will function, and they are recommending this height to us…"

Mr. Talib informed the Board that he had a degree in Tropical Studies, which meant studying climate and architecture and how buildings behaved in relationship to climate, including wind and temperature. He stated he had studied these charts all his life and taught this topic in universities all over the world for 20 years.

Mr. Talib informed Chair Strawbridge that his clients had requested the wind generator when Mr. Talib designed the house. The house also utilized solar energy. Mr. Talib remembered that two years ago, he had appeared before the Board regarding the installation of a wind generator at his home, and the Board had denied his request. At that time, he had failed to bring an expert to the meeting and this had prevented him proceeding further. Mr. Talib said this time, he had brought an expert, Dr. Subramanian, who was Chair of an aerodynamics department at a university, and had written many papers on the subject they were discussing today.

Mr. Orie Legum, applicant, explained that one of the charts had been obtained from the National Renewable Energy Council. He noted that instruction manuals included with items such as appliances informed owners how an apparatus would operate properly. In this case, the generator manufacturer advised the proper installation height to achieve the proper operation. Mr. Legum remarked that there were "over 100,000 of these installed throughout the United States." Mr. Jordan asked how many were installed in Florida, and Mr. Legum said this was the first; they were pioneers. Mr. Legum said they were proposing to have "a little bit of sun, a little bit of wind, and altogether, we believe that we can have a better future for us and for our kids." He understood there were some objections, but was certain that within 10 years it would be commonplace for people to generate their own power.

Ms. Centorino was concerned about the noise factor, and asked if the applicant or his representatives had heard a wind generator in operation. Mr. Legum said he had not heard one operate, and referred to the chart indicating decibel level. He pointed out that 50 dB was roughly equivalent to a refrigerator. Mr. Talib said he had heard generators operating in person, and noise was not a compliant. He noted that they had become quieter as technology had progressed.

Mr. Jordan feared that as the unit aged it would become noisier. Chair Strawbridge asked if the generator company had a local representative, and said he had seen on the Internet that Mr. Legum and Mr. Talib were “in the business of selling windmills.” Mr. Legum informed Chair Sturbridge he was mistaken. He said the firm Mr. Talib had put together was a “think tank” to explore how renewable energy could be brought to urban areas.

Mr. Talib said there had been cynical comments from Rio Vista regarding this firm. He said the firm had been established for the public good, and there were six directors with different capacities in solar and wind energy. Their concern was to improve the environment, and to allow people to create buildings that were sustainable.

Mr. Legum showed a photo of an identical windmill installed in San Francisco. Chair Strawbridge calculated that this windmill was only 10 feet above the building parapet, and he wondered why it was not 20 feet taller. Mr. Legum said he was not the architect or designer for that windmill, so he could not speak regarding that. Mr. Legum wanted to show a short video regarding that windmill, and Chair Strawbridge said, “Maybe we don't need to see this video and take up Board time because it doesn't appear to correlate to the data you're giving us.”

Chair Strawbridge asked why the applicant was requesting the rear yard setback relief. Mr. Talib explained that near the water, there was a tunnel wind effect as it dropped toward the canal. Professor Subramanian said he had felt, but not measured, the difference in the wind near the canal. He added that they also did not want to install the generator too near the home because it would generate its own wind wake and would not operate satisfactorily. Mr. Dunckel asked for quantifiable data regarding the difference in wind near the canal and Professor Subramanian said he did not have this.

Mr. Talib explained to Mr. Jordan that they had not submitted the application for the wind generator with the home construction documents because they knew it would require a variance. They had therefore applied for the home construction documents first.

Mr. Talib stated the windmill generated 1.5 kW of energy. He explained that the house was passively designed to use less energy. The generator should produce approximately 25% of the house’s energy needs. Mr. Larson asked for an estimate of how much money this would save in energy costs and Mr. Talib said the purpose was not immediate savings, but he estimated energy costs would double in less than five years. Mr. Legum estimated the unit could save him $165 per month in current energy costs. Regarding the unit's proximity to the canal, Mr. Legum explained that the closer the unit was located to a structure, turbulence was increased, and this was why they wanted to locate it farther away from the house.

Mr. Talib explained to Mr. Jordan that there was a 400 amp service at the house, but pointed out that energy consumption was a different issue. The home had triple glazed windows, which allowed them to drop the air conditioner load by 25%. Mr. Legum explained that the third glaze reduced UV rays.

Ms. Natasha Talib, attorney, explained that Florida Statute 163.04 expressly prohibited adoption of any ordinance by a governing body which prohibited, or had the effect of prohibiting installation of renewable energy source devices, and noted that windmills or wind driven generators were defined as renewable energy source devices by Florida Statute 196.012. She said the Florida legislature had stated that their intent in enacting these provisions was to protect the public health, safety and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings and resources by preventing the adoption of measures which would have the ultimate effect of driving the cost of owning and operating commercial or residential property beyond the capacity of private owners to maintain.

Ms. Talib said the Statute further provided that in any litigation arising under its provisions, the prevailing party shall be entitled to reasonable attorney's fees and costs. She cited the case of the City of Ormond Beach versus the State of Florida, in which the Fifth District Court of Appeal held that section 163.04 applied to the decisions of Boards of Adjustment concerning variance applications. Ms. Talib explained that in the Ormond Beach case, a homeowner had sought a variance to erect the windmill on his beachfront property. The owner had sought a side yard variance and a height variance to permit him to exceed the 30-foot maximum height by 16 feet. The Board of Adjustment had denied the request on the basis that the owner had not demonstrated hardship. The homeowner had sought de novo review in the Circuit Court and the Circuit Court had found that Section 163.04 was applicable, and granted the variance.

Ms. Talib said the city of Ormond Beach had then appealed to the Fifth District Court of Appeal, which also found that 163.04 was applicable to the decisions of Boards of Adjustment. The Court went on to hold that 163.04 eliminated the need to prove a hardship as the basis for a property owner’s request to install a renewable energy device and that the homeowner must only demonstrate that the variance was needed so that the windmill could operate satisfactorily. In other words, the homeowner must demonstrate that the requested variance would make possible the reasonable use of the structure.

Ms. Talib stated the homeowners in this case, Orie and Rachel Legum, had demonstrated that the requested variance of 31 feet was necessary for the reasonable use of the windmill. The uncontroverted testimony of Professor Subramanian was that the requested variance was necessary for the windmill to operate satisfactorily. She noted that Professor Subramanian's testimony was based upon his extensive education,

experience and qualifications. Ms. Talib stated the owners had demonstrated as a matter of law that they were entitled to a variance, pursuant to Florida Statute 163.04.

Mr. Jordan asked if Ms. Talib was saying the owners would sue the City of Fort Lauderdale, if they lost. Ms. Talib said they would seek appeal, either by de novo review or by certiorari. Mr. Jordan admitted that as a taxpayer, he did not like the City's being sued. Mr. Jordan said, "Uncontrovertial [sic] testimony from this gentleman over there? He's a highly educated gentleman, but we picked holes all over his testimony." Mr. Jordan did not believe Professor Subramanian's testimony was incontrovertible and said he resented the fact that the owner intended to sue the City.

Mr. Weihe reminded Ms. Talib that Professor Subramanian had testified that he had not taken site-specific wind readings at the property. Ms. Talib said this was correct, but Professor Subramanian had testified that based upon his experience and qualifications, he believed the requested variance was necessary for the reasonable use of the windmill regardless of whether or not there was actual testing.
Mr. Weihe asked if Ms. Talib would agree that "in order to obtain this variance, while a hardship may not need to be shown, that it would be necessary to show that they've done whatever they could to minimize the effect of the variance, in other words, to show by your evidence, what would constitute a reasonable use of the property, to show by your evidence, not what would be an optimum performance, but I believe the testimony has been satisfactorily without really identifying to us what may have been reasonable."

Ms. Talib explained that the Ormond Beach case used the terms "satisfactorily" and "reasonably" interchangeably. She thought Professor Subramanian's testimony had demonstrated this, and agreed they did not need to demonstrate optimum use.

Mr. Jordan said the State ordinance did not mention windmills, only solar panels and clotheslines. Ms. Talib said the statute used the term "renewable resource energy device" and another statute defined this term to include windmills.

Ms. Centorino asked if the windmill existed in Ormond Beach now; Ms. Talib did not know. Ms. Centorino said "I would suggest that perhaps this case is different from the case before us."

Mr. Larson said the owner would still have reasonable use of his property if the variances were denied. Ms. Talib said what was referred to was reasonable use of the "structure" the structure being the windmill. She agreed the owner could still use the house. Mr. Goldman referred to the Ormond Beach case, and quoted from it, "… at what location and height reasonable use and performance of windmill could be attained."

Mr. Jordan said there would be no hardship if the windmill were denied because the 400 amp service could "fuel the whole block." He stated, "Madam attorney is stretching things."

Chair Strawbridge open to the public hearing and cautioned speakers that they would be strictly limited to three minutes.

Ms. Salome Zakakis said she had researched installing a windmill at her own property, but had been stymied by members of the Building Department and she felt the City was not ready for this type of progressive thinking. She pointed out that the Board had the opportunity to do something positive for the community, and to be a trendsetter. Ms. Zakakis noted that even though San Francisco was much more urban and Fort Lauderdale, San Francisco's mayor had supported the windmill there. Ms. Zakakis said even the larger windmills did not generate as much noise as an air-conditioning unit. She stated one did not need expert testimony to know wind increased higher in the air or closer to water. Ms. Zakakis asked the Board to approve the variance because it was the right thing for the community.
Mr. Scot DiStefano said he agreed with Ms. Zakakis. He commended the applicant, and said they needed to embrace this technology. Mr. DiStefano said the windmills were a lot better than FPL smokestacks and distribution lines.

Mr. Tom Tatum said, "This application does not give rise to a referendum for this Board to decide the merits of alternative energy." He said the Board's purpose was to decide whether this particular property owner should be granted a variance to erect a structure within the setback, and "how tall should it be." He said if the City wished to make it public policy to encourage alternative means of energy, it should address that. Mr. Tatum said the City had a zoning code governing this application, and it was not up to the Board to change it. He urged the Board to deny both requests, and to recommend that the City Commission look into this.

Mr. Scott Surridge said he opposed the request. Mr. Surridge said he had visited Mr. Talib's Hybrid Buildings, Inc. website, and said there was a web page where a visitor could request a quote. Chair Strawbridge said, "Including a windmill? Great, because the applicant just testified that they're not in the business of selling them. Now I'm surprised." Mr. Surridge agreed to submit the document he was reading into evidence. Regarding the hardship, Mr. Surridge said there was legislation "for the County here for property tax, that for any new renewable resource, solar panels … you can get full exemption from your property tax back, for material costs and installation." Mr. Surridge believed the owner could fit more solar panels on his roof, enough to cover 100% of his utility bills.

Chair Strawbridge asked Mr. Surridge to confirm that that "the County government will effectively underwrite the cost of the purchase and installation of energy saving devices,

by virtue of a rebate on your property tax, and it's 100% for qualified types of energy saving devices." Mr. Surridge said this included plumbing and electrical, and piping for hot water. Chair Strawbridge remarked, "Hit the mother load there, Mr. Legum."

Mr. Goldman clarified that this was an exemption from the property tax bill. For example, if the cost of the windmill was $25,000, this amount would be exempted from property tax. Mr. Surridge said it included installation charges. He entered the document to which he referred into evidence.

Mr. John Wilkes said he was an attorney who specialized in real estate/property law, including environmental law, zoning and land use issues. He said citizens were concerned about the aesthetic and practical implementation of alternative energy devices. He lauded the applicant for bringing this issue to the City's attention, but said he did not support the application as presented. He believed that procedurally and practically the petition failed. Mr. Wilkes said the Board was not charged to address items within the purview of the comprehensive plan, which included "reusable and conserving energy uses."

Mr. Wilkes said the Board's other charge was to review cases for special exceptions or variances when a particular ordinance did not apply to a unique piece of property and imposed a hardship. He said all five criteria in the code must be met, and no evidence submitted this evening met any of those criteria.

Mr. Wilkes said the Statute cited by the applicant's attorney was initially proposed to promote solar energy, and when it was amended it still related to solar energy, providing a person may not be prohibited from installing solar collectors.

Mr. Wilkes wondered if this was an attempt to usurp the powers of local governments to impose fairly debatable provisions that protected health, safety and welfare, taking into account all considerations not just an individual use of property. Mr. Wilkes believed the proper forum for this was the courts, not this Board.

Mr. Wilkes said it was a tax a statute that defined alternative energy devices. He wondered if they would see a proliferation of windmills, "a landscape of 65-foot windmills throughout the City." Mr. Wilkes predicted that neighbors would attempt to outdo each other in the size, height and number of windmills.

Mr. Wilkes presented a Wall Street Journal article about a company that produced 8.3% of windmills worldwide, which had recalled 1,251 windmill blades for "structural, perhaps defects." He presented another article from the Miami Herald he admitted "could be slighted because it's influenced by Florida Power & Light" which stated windmills in Florida were not as effective as they were out west. Mr. Wilkes presented copies of these articles into evidence.

Mr. Lloyd Meisels admitted renewable energy was an admirable goal, but wondered what hundreds or thousands of windmills would look like in neighborhoods. He believed Fort Lauderdale was a very different community, philosophically and politically, from San Francisco. He added that Fort Lauderdale was not located on a hill, and had a different climate. Mr. Meisels was concerned about the City's aesthetics. He said he supported renewable energy as it was being pursued in Hyannis Port Massachusetts, where windmills were located in the water, where they would have no impact on residents.

Ms. Pam Voller stated she lived "directly across from this mausoleum of a house that's being put up with no green space at all in the yard." She said Rio Vista community had posted a web questionnaire, and 29 of 30 responses had opposed Mr. Legum's request. Ms. Voller disputed Mr. Talib's information that windmills did not kill a significant percentage of birds. She said this was a "huge problem" in California. Ms. Voller asked who would compensate neighbors for the loss of enjoyment of their properties because of the noise, and the eyesore the windmill would present. She also wondered where the windmill would fall in a hurricane.

Mr. Robert Kozich believed that even at only 40 to 50 dB, at night, the noise of the windmill would be heard inside a neighbor's home. Mr. Kozich believed the low frequency noise would travel "especially through the concrete" and said it was a difficult noise to contain. Mr. Kozich was also concerned about where the windmill could fall in a storm surge.

Mr. Paul Michaloski thought the City was very strict about the 25-foot setback on waterways, and felt the requested reduction was totally unacceptable on the Tarpon River. Regarding the height variance request, Mr. Michaloski stated, "The higher up you go in a hurricane, it's greater the wind, so you know that's going to affect this wind generator." Mr. Michaloski said, "…Citizens Wind Insurance will not cover any damage caused by that to anything other than the roof or structure of your house" and this concerned him. He wondered who would reimburse him if this windmill fell on his property. Regarding the noise, Mr. Michaloski said neighbors would not be able to keep their windows open at night.

Mr. Jordan remarked, "So…he'll be saving energy and you'll have to close your window and turn your air conditioner, you'll be losing energy and he'll be saving money and you'll be spending money."

Ms. Jean Meisels was concerned that locating the windmill within 5 feet of the waterway would put it within 10 or 15 feet of her home. Ms. Meisels said since there was not yet a windmill located in the state of Florida, there had been no tests done to find out how it would function in a coastal area in Florida, as opposed to in a rural or urban area. Ms.

Meisels believed this sort of test should be done in an environment that would not put property or life in jeopardy.

Mr. St. George Gourdabassi did not feel there was a hardship here. He was also concerned about noise. He worried that if the unit was not maintained and a bearing were damaged, it would become noisy.

Mr. David Weaks said he had attended the Renewable Energy Wind Turbine Conference and had stopped at Beech Mountain in North Carolina, where there was a wind turbine farm and tests were conducted on wind turbines from all major manufacturers. Mr. Weaks said he was “very familiar with all of this stuff that you guys have been pooh-poohing about. I've never seen a more biased group of people.”

Mr. Weaks explained that the higher a wind turbine was located, the higher the power. Regarding the noise measurements, Mr. Weaks said once the turbines attained high speed, the rustling of palm trees was probably more noticeable than the sound from the wind turbine. Noise was not an issue. Mr. Weaks felt the turbine should actually be installed higher.

Mr. Dunckel asked Mr. Weaks about the formula: Power = Velocity^3. Mr. Weaks explained that the higher one went up the air column, the lower the turbulence, resulting in higher velocity and additional power. Mr. Weaks stated the rule of thumb for siting wind turbines was to install them 30 feet above anything else in the area. Mr. Dunckel asked if there was a difference in wind profile between an oak tree and a palm tree. Mr. Weaks said there was, and there was also a difference in the shrubs and grasses. Mr. Dunckel said this indicated a true reading must be site-specific.

Mr. Weaks stressed that the higher up and farther away from obstacles a turbine was located, the more power it could deliver. Fan size contributed to power as well. He said there were three mistakes to be made in siting a wind turbine: too short a tower; too short a tower and too short a tower. Mr. Weaks explained that increasing wind velocity by 2 mph would result in eight times the power.

Mr. Fred Stresau reported the estimated cost of the project was $950,000. He thought the cost of the house and the land was probably closer to $2.5 million, and he wondered about the need to conserve energy through use of a windmill. Mr. Stresau presented the Board with a copy of the site plan and said there was a location within the setback where the concrete pad could be located, and asked the Board to consider this.

Regarding State Statute163.04, Mr. Stresau did not believe that when this statue was prepared, the state legislature was ready to make a quantum leap from clotheslines to 65 or 75-foot windmills. Mr. Stresau referred to Mr. Talib's 2006 appearance before the Board of Adjustment, and Mr. Stresau's remark at the time that a wind shadow study

should have been provided to prove the height variance was necessary. This had never been submitted, and Mr. Stresau had anticipated that this evening.

Mr. Stresau had consulted the US Department of Energy website to investigate guidelines when considering constructing a windmill. One guideline was a sufficient wind source, and Mr. Stresau said the wind speed dissipated as one moved inland. Another suggestion was that the home or business be located on at least one acre of land in a rural area. Mr. Stresau pointed out that Mr. Legum's lot was roughly 1/5 of an acre. The Department of Energy also advised owners to be aware of local zoning codes and covenants and whether these allowed wind turbines. Mr. Stresau felt it may not be up to this Board to determine what the legislature intended when they discussed other renewable energy sources; he felt this should be left to a court. Mr. Stresau said the website also suggested the property be in a remote location and without access to utility lines. Mr. Stresau said he was familiar with pole and transformer locations in Rio Vista and did not believe this property was far from any power source.

Mr. Stresau said the website also indicated that the turbine manufacturer could provide an expected energy output, based on the average annual wind speed. He remarked that the average wind speed in Fort Lauderdale varied considerably. Mr. Stresau believed a study must be conducted on-site to determine if the turbine would work, and said the Department of Energy confirmed that on-site monitoring would provide the clearest picture of available resources.

Mr. Stresau had tried to contact David Collie, the president of the company that manufactured Mr. Legum's turbine, who had provided an affidavit stating "the tower must be mounted 20 feet above any surrounding object within a 250-foot radius in order for it to operate satisfactorily." Mr. Stresau said Mr. Collie had never visited this site, so he did not know.

Mr. Stresau had consulted the ULDR, which indicated the burden for granting a variance was upon the applicant to demonstrate through a preponderance of evidence that the application met the criteria specified. Mr. Stresau did not believe the Board could even consider this without an energy study conducted on-site.

Mr. Stresau reported he was on the board of directors of the Rio Vista homeowners association. The association's website had accepted comments regarding this, and he noted that 38 of the 42 respondents opposed it. Mr. Stresau added that the zoning code spoke to community compatibility for every issue. He said he hoped the Board would turn this request down and direct the City Commission to have legislators in Tallahassee consider refining what was really meant by alternative energy sources, because he believed they would see more cases like this and they "could have windmills all over the City." Mr. Stresau had recently been appointed to the Planning

and Zoning Board and said he would take this message to that Board as well. He also intended to pursue this matter with the Utility Advisory Committee.

Mr. Stresau said he applauded what the applicant was trying to do and had suggested this be done in a school or park, where the height and setback would not be a consequence, and noise would not be an issue.

Mr. Dunckel confirmed that Mr. Collie's affidavit had been included in the record

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

Mr. Goldman asked Mr. Dunckel to summarize the Ormond Beach decision. Mr. Dunckel explained that the Ormond Beach case determined a hardship need not be proven to get relief under Statute 163.04. It did include other provisions that were standard criteria for a variance, such as the request's being the minimum required to make possible the reasonable use of the structure. Mr. Dunckel said if it could be demonstrated that at a different height or location the windmill could still yield a reasonable performance, the applicants had not met the burden.

Mr. Dunckel suggested the Ormond Beach case might not be applicable. He noted that 163.04 made reference to 196, which was a tax statute, regarding windmills. Windmills were not directly mentioned in 163.04, and Mr. Dunckel believed windmills did not go together with the alternative energy sources explicitly cited in 163.04: solar collectors and clotheslines.
Mr. Willey said he had been appointed to act on behalf of the citizens, and the only people to provide expert information this evening were those who supported the request. Mr. Willey wanted to know if a windmill that met the ULDR height limit of 35 feet would provide enough energy to be viable and make it worth spending the money. Mr. Willey did not know if the windmill must be at 66 feet to get enough wind speed to produce sufficient electricity to effectively reduce the need for other power sources. Mr. Willey stated, "I don't know where I'm going to get that information if I have to vote tonight." He did not know of the Board could ask the City to provide verification that 66 feet was required or if 35 feet would be sufficient. Mr. Willey felt he did not have enough information to say yes or no.

Mr. Larson agreed he did not have enough information. He asked if they could defer the item until next month to allow time for the Board obtain more information.

Mr. Weihe was concerned that the studies cited by Mr. Talib and Professor Subramanian were not site specific and therefore might not be relevant in determining if the windmill's performance would be satisfactory if the variances were granted.

Mr. Jordan felt he had enough information to render a decision and did not want to postpone it. He said he had heard a lot of testimony this evening, but “a lot of it didn't jibe.” Mr. Jordan said he would not want a windmill in his backyard and he didn't believe the neighbors in Rio Vista wanted it in their backyards. He did not feel the legislature had a windmill in mind in Statute 163.04.

Ms. Centorino believed she had enough information to render a decision. She said she supported the concept of alternative energy, but she felt the neighborhood density was too great for this type of structure and she would not want it her neighborhood. She agreed with Mr. Stresau that the structure should be tested in a less dense setting. Ms. Centorino also believed the land area of this property was insufficient for the unit to function properly.

Mr. Goldman wished that there was a government issued, detailed wind map so anyone wishing to install a windmill did not need to conduct a site-specific test. He also would like additional information to determine if this height and location were necessary.

Chair Strawbridge reminded the Board that the burden was on the applicant and it was not the City's obligation to present evidence. He advised Board members they could vote “whichever way your conscience tells you that you feel the evidence that's been presented compels you.” He was not opposed to bringing in additional information, but he did not believe it was the City’s obligation.

Chair Strawbridge was troubled they did not have site-specific data. He stated, “If I had site specific data, and I know that this windmill was planned from the beginning, then I would want to know that the house was designed to be compatible with the windmill and that it was not an afterthought and had to be pushed out into the setback for convenience, because to me that is a classic self imposition of a hardship.” Chair Strawbridge said he would not support the variance “unless I know that the place and the height that are represented on what started out as a raw site plan are the ones that provide the reasonable use and that it hasn't been denied to you by virtue of the design and the work you’ve already done on your property.”

Chair Strawbridge said he had studied the Ormond Beach case closely. He advised Board members they may need to entertain this in two votes. The first vote would take into consideration the hardship criteria in the ULDR, and the second vote would recognize whether or not the applicant had demonstrated he met the litmus test of reasonable use under section 163. Chair Strawbridge felt it may be their job to analyze the hardship based on whether or not this was reasonable use of this energy efficient device as opposed to the normal criteria.

Chair Strawbridge struggled with the definitions of “reasonable” and “satisfactory.’ The experts who testified had provided a lot of “anecdotal, broad-based data…but they haven't shown me anything that tells me that this height and this location on this site are a reasonable use, based on all the other criteria they we’re looking at.”

Mr. Dunckel believed the Board could “bifurcate the order… and vote it up or down on the basis of the traditional criteria, which is essentially making the statement that we think that there is error in applying 163.04 as Ormond Beach did back in 1983 and then go one step further and say if we were to apply, if Ormond Beach is controlling, then come down with a ruling as to whether you feel that it meets the criteria under Ormond Beach. And I would remind you that part of that criteria in Ormond Beach is that they don't have to demonstrate the hardship, however, they do have to demonstrate that the variance requested is the minimum variance that will make possible the reasonable use of the windmill.”

Mr. Dunckel remarked that the experts this evening had used the terms “satisfactory” and “reasonable” which he believed referred more to a range than a specific figure. He did not believe that lowering the windmill by 1 foot would render it useless, he felt there was probably some reasonable range.

Mr. Dunckel reiterated that if the Board decided to go forward this evening, it would be appropriate to “couch it in both a non-Ormond Beach and an Ormond Beach fashion.” This would give the City the opportunity to argue the applicability of 163.04.

Chair Strawbridge apologized for any abruptness earlier, blaming it on a double espresso.

Regarding the suggestion that the Board defer this matter to obtain additional evidence, Mr. Dunckel said people he had spoken to at the City had advised him that unless they had quantifiable, site-specific data, the Board would be requesting “a series of abstractions over which reasonable people may disagree.” If the Board were to continue the case, Mr. Dunckel advised the Board to ask the applicant to provide wind shadow studies that were site-specific, and to indicate exactly what “reasonable” standards were.

Mr. Weihe said if the applicant was willing to supplement the evidence they had to date, he would consider a continuance, but he was satisfied that they had that obligation today and had not satisfied it.

Mr. Jordan said the evidence presented was “very specious” and wondered how a City engineer could critique this specious information.

Motion made by Mr. Jordan, seconded by Mr. Weihe, to approve the application as presented on the basis of the criteria set forth in the ULDR. In a roll call vote, the vote was as follows: Mr. Larson - no; Ms. Centorino - no; Mr. Goldman - no; Mr. Jordan - no; Mr. Weihe - no; Mr. Willey - no; Chair Strawbridge - no. Motion **failed** 0 – 7.

Mr. Dunckel advised the Board to indicate a reason for denial pursuant to 163. He said they had adopted a motion some time ago that all denials would be predicated upon the failure of the applicant to prove by a preponderance of the evidence that all criteria in 47-12.4 were met. Mr. Dunckel stated this language would be attached to the order.

Mr. Dunckel advised the Board that for their second motion, they would be judging the case on the basis of the Ormond Beach decision, which said the applicant did not have to prove a hardship, as this Board traditionally applied hardship. If by a preponderance of the evidence the applicant had proven that this was the only location and height which gave a reasonable yield on the windmill, then they were entitled to the relief requested, because Ormond Beach said they had to go with the minimum variance necessary. If there was some lesser height or location that would still yield a reasonable use of the windmill, then it should be denied. Mr. Dunckel recommended that if the Board intended to deny, it should be couched in terms of a lack of credible evidence to satisfy the criterion that this was the only location that would yield a reasonable performance.

Mr. Dunckel explained that this motion was not applying the five criteria in 47-24.12.4, but the criteria in the Ormond Beach case [which was also in 47-12] with regard to this being the minimum variance necessary to yield a reasonable result.

Motion made by Mr. Jordan, seconded by Ms. Centorino, to approve, per the criteria in the Ormond Beach case with regard to this being the minimum variance necessary to yield a reasonable result. In a roll call vote, the vote was as follows: Mr. Larson - no; Ms. Centorino - no; Mr. Goldman - no; Mr. Jordan - no; Mr. Weihe - no; Mr. Willey - no; Chair Strawbridge - no. Motion **failed** 0 – 7.

Mr. Dunckel advised the Board to “adopt a motion that the denial is based upon the Board's determination of a lack of credible evidence to demonstrate by a preponderance of the evidence the requisites for granting a variance under Ormond Beach, which includes that it must be the minimum variance that will make possible the reasonable use of the windmill.”

Motion made by Mr. Jordan, seconded by Mr. Weihe, that the Board’s denial was based upon their determination of a lack of credible evidence to demonstrate by a preponderance of the evidence the requisites for granting a variance under Ormond Beach, which included that it must be the minimum variance that would make possible the reasonable use of the windmill. In a roll call vote, the vote was as follows: Mr.

Larson - yes; Ms. Centorino - yes; Mr. Goldman - yes; Mr. Jordan - yes; Mr. Weihe - yes; Mr. Willey - yes; Chair Strawbridge - yes. Motion **passed** 7 - 0.

Index

2. APPEAL NO. 08-25

APPLICANT: Sophia Enterprises, Inc.
LEGAL: "Las Olas By the Sea Amended Plat," P.B. 1, P. 16, Block 2, Lot 8
ZONING: PRD (Planned Resort Development District)
STREET: 441 S. Ft. Lauderdale Bch. Blvd.
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 178 feet from an establishment (Bierbrunnen) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

Ms. Courtney Crush, attorney for Sophia Enterprises, explained that St. Bart's Coffee Shop would like to serve beer and wine incidental to its existing menu. The restaurant was not proposing to expand, change the menu or the restaurant's configuration. Ms. Crush informed the Board that there were currently three tables inside the restaurant and eight to ten tables outside.

Ms. Crush stated the criteria for special exception required the following tests 1: Is this a restaurant? She stated this was a restaurant with an occupational license. 2: Would it be against the public interest to permit St. Bart's to be closer than 300 feet to the nearest establishment also serving alcohol? Ms. Crush informed the Board that the nearest establishment was the Bierbrunnen Restaurant, which had a full bar license. This is what required the next establishment serving alcohol to be 300 feet away. Ms. Crush remarked that St. Bart's had been an asset on the beach, and there would be no downside to the neighborhood if the request were granted.

Mr. Jordan did not object to the request.

Mr. Larson remarked that "the 300 feet is in there for a reason" and the Board had recently denied a similar request. He asked if it was possible that the alcohol sales would surpass food sales. Ms. Crush said this was not her client's intention and if that were the case, they would not be permitted a restaurant license with the State or the City.

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

Motion made by Mr. Goldman, seconded by Mr. Weihe, to approve. In a roll call vote, the vote was as follows: Mr. Larson - yes; Ms. Centorino - yes; Mr. Goldman - yes; Mr. Jordan - yes; Mr. Weihe - yes; Mr. Willey - yes; Chair Strawbridge - yes. Motion **passed** 7 - 0.

Index

3. APPEAL NO. 08-26

APPLICANT: 1200 Club Condominiums Association
LEGAL: **The N 150 ft of the following described parcel: A parcel of land in Government Lot 4, Sec. 31, Township 49 S, Range 43 E, described as follows: Beginning at the Low Water mark of the Atlantic Ocean and S Boundary of "Las Olas By The Sea Extension", P.B. 3, P. 8, thence W along said S boundary to the SW Cnr. of Lot 7, thence S at right angles, a distance of 300 ft; thence E and parallel to said S boundary to the Low Water mark of the Atlantic Ocean; thence Northerly along said Low Water mark to the point of beginning.**
ZONING: **RMH-60 (Residential Multifamily High Rise/High Density District)**
STREET: **1200 N. Ft. Lauderdale Beach Boulevard**
ADDRESS: **Fort Lauderdale, FL**

APPEALING: **Section 47-5.38 (Table of Dimensional Requirements for the RMH-60 District)**
Requesting a variance to allow 5 feet front yard setback East, where Code requires 25 feet; requesting 0 feet side yard setback North, where Code requires 10 feet; and requesting 0 feet rear yard setback West, where Code requires 20 feet.

Mr. Burgess reported this item had been deferred.

Index

4. APPEAL NO. 08-27

APPLICANT: 610, LLC
LEGAL: **"Progresso Plat", P.B. 2, P. 18, Block 321, Lots 29, 30, 31, 32, 33 & 34**
ZONING: **B-3 (Heavy Commercial/Light Industrial Business)**
RMM-25 (Residential Multifamily Mid Rise/Medium High Density District)
STREET: **610 NW 3rd Avenue**
ADDRESS: **Fort Lauderdale, FL**

APPEALING: Section 47-24.12.A.6 (Variances, Special Exceptions & Interpretations of ULDR)

Requesting a Temporary Non-Conforming Use Permit in order to begin providing social services to City and County residents during the time its applications for site plan, variance and rezoning approval are pending at the City.

Mr. Dunckel recommended that items four and five be heard together but voted upon separately. The applicant's representative and the Board agreed.

Board members disclosed communications they had regarding this item.

Ms. Heidi Davis, attorney for the applicant, presented an aerial photo of the property, and explained that the non-profit The Pantry of Broward intended to lease the property. Ms. Davis explained that the owner of the property, Elizabeth Buntrock, had been present earlier, but had become ill and left.

Mr. Phillip Shailer, Chairman of the Board of The Pantry of Broward, explained that The Pantry leased the property from 610 LLC for $10 per month. Mr. Shailer remarked it was a "long, long process and a very expensive one" to establish this enterprise to give away food and provide resources to people in need.

Mr. Shailer said their clients included senior citizens who were financially disadvantaged and grandparents in need who were raising grandchildren. Mr. Shailer said he had been shocked to discover how many grandparents were raising their grandchildren in Broward County.

Mr. Shailer informed the Board that they must go through a very lengthy process to change the zoning on one section of their property from residential to parking, and he anticipated that without this temporary use, they could not be up and running until October or November. He explained that they had built up their resource bank of doctors and lawyers, and the shelves were already beginning to fill up with food. Mr. Shailer said this was not a soup kitchen. They would provide boxed food for consumption off premises, but no food would be consumed on premises. The Pantry would only be open during daylight hours, 9 a.m. to 4 p.m. Monday through Friday.

Mr. Shailer said they were "champing at the bit… to get underway" and asked the Board to help them do so.

Ms. Davis said the applicant was seeking a temporary, nonconforming use permit during the time their applications were pending with the City. She said the applicant satisfied the criteria pursuant to 47-24.12.A.6 which provided that the granting of the temporary, nonconforming use permit would not be incompatible with adjoining properties or the surrounding neighborhood. Ms. Davis showed an aerial photograph of

the area and described the adjoining properties: commercial uses to the south, including a plumbing store; a warehouse distribution facility to the east and north; a community facility church to the west.

Ms. Davis believed this would be a much less intensive use than what was allowable under the B3 zoning designation. She reiterated that there would be no meals served on the premises and explained that The Pantry regulated client intake so there would be no adverse impact on neighboring properties. Ms. Davis said the Pantry would be extremely compatible and a welcome addition to the neighborhood. It was therefore in the public's best interest, not contrary to it

Ms. Davis then addressed the neighborhood compatibility and backout parking requests:

Ms. Davis explained that The Pantry of Broward had identified this location because it was centrally located in the urban core, close to clients and on a bus route. The property was in the northwest Regional Activity Center in which the City encouraged redevelopment. Ms. Davis presented a copy of the landscape plan.

Ms. Davis stated the applicant was requesting variances in two areas of the ULDR: neighborhood compatibility buffer yard and backout parking. Due to the uniqueness of the property and its constraints these presented a hardship.

Ms. Davis listed the sections to which they were requesting variances and pointed to the specific areas on the property to which these applied. Ms. Davis said the variances requested were needed in order to allow the reasonable use of the property for The Pantry. She noted that a strict interpretation of the ULDR regarding backout parking and neighborhood compatibility would make redevelopment virtually impossible, and would prevent The Pantry from providing a much-needed social service to the community.

Ms. Davis said the applicant intended to upgrade the property with new landscaping which exceeded the code. They had also painted the structure and installed awnings. Ms. Davis reiterated that granting a variance would not create an adverse impact to surrounding properties. If the variances were not granted, the property would not meet the parking and landscape requirements under the ULDR, and the owner would be deprived of his property rights and the City would be deprived of an important and beneficial service. Ms. Davis said the property’s special conditions and circumstances, such as size, existing structure, layout and zoning designations had not been caused by the applicant. The requested variances were the minimum necessary to accomplish redevelopment and permit reasonable and permitted use of the property.

Ms. Davis said in order to accommodate parking requirements, the spaces needed to be located on the north side of the wall. She said the 6-foot high wall and heavy landscaping would provide adequate screening to the properties north of this property and meet the intent of the buffer yard requirements.

Regarding the backout parking, Ms. Davis said the applicant had met all conditions to continue the existing backout parking except two, which would present a hardship. The applicant requested a variance to eliminate the sidewalk required along Northwest 3rd Avenue and the paver requirements for the backout parking. She noted that there was minimal traffic along Northwest 3rd Avenue and it was no longer a direct route to Sunrise Boulevard. Ms. Davis referred to a letter from the church across the street concurring that there was minimal traffic, and that backout parking would pose no hazards. She pointed out that there was adequate sidewalk across the street. Ms. Davis proposed they would paint yellow stripes in the right-of-way area adjacent to the backout area to make backing out safer.

Ms. Centorino was concerned about the sidewalk, noting that the sidewalk across the street was in disrepair. Ms. Davis noted that the sidewalks would not connect anywhere since the adjacent property was not improved and had no sidewalk. Chair Strawbridge noted that the sidewalk across the street was safe in terms of car traffic, and a sidewalk installed on this site would be unsafe in combination with the backout parking.

Mr. Jordan said this was a very nice project, and it was a wonderful thing. He commended the applicants for helping the neighborhood.

Chair Strawbridge remarked that low income and elderly people needed all the help they could be given, and he was aware of the issue of grandparents raising grandchildren.

Mr. Willey felt the Board should set a time limit for the nonconforming use permit. Mr. Dunckel said this had been worded to indicate it was for the period of time that the application for site plan variance and rezoning were pending. Mr. Willey was concerned it would go on too long and asked if the applicant would agree to a six-month term. Ms. Davis suggested a year, and pointed out that they wanted to get it done as soon as possible.

Mr. Willey agreed that the right-of-way should be striped to make pulling in and backing out safer. He also wanted to tie the variance to the operation of The Pantry of Broward; Ms. Davis agreed to this.

Chair Strawbridge opened the public hearing.

Mr. Richard Barrett said he lived 50 feet from this project, said, “They're packed in like sardines; this is too small.” He said the neighbors were fighting right now to get the City to provide sidewalks and landscaping in this area. Mr. Barrett said there had been a request for a zoning change for property 50 feet to the north which had been denied by the City Commission because they did not want to destroy the residential character of the neighborhood. Mr. Barrett said this was why all the avenues in the area had been closed off; to preserve the residential character of the neighborhood and keep out commercial traffic.

Mr. Barrett did not believe people would arrive by bus; he said they would arrive by car, and he was concerned about the parking. Chair Strawbridge reminded Mr. Barrett that there was no request for a parking reduction. Mr. Barrett said it was impossible for cars to exit and enter the parking area at the same time.

Mr. Barrett did not understand why they were requesting to change the zoning. Chair Strawbridge clarified that this Board could not grant a zoning change. They could provide temporary relief while The Pantry applied for the zoning change. If their request for a zoning change were denied, once the time period of the temporary special exception ran out, it expired.

Mr. Barrett said what The Pantry was trying to do was contrary to everything the neighborhood association had been trying to accomplish for four or five years. Mr. Barrett believed the property was zoned residential. Ms. Davis explained that the North 25 feet was zoned RMM. Chair Strawbridge pointed out that there was no chance this 25-foot wide strip would be redeveloped as a single-family home because it could not meet the minimum lot standards. Mr. Barrett was concerned that the conversion to commercial would creep along the block.

Mr. Shailer told Mr. Larson that if the City ever did install sidewalks on either side of their property, they would complete their sidewalk.

Mr. Mark Boyd member of the Civic Association Board, explained he owned a town home in the area. He appreciated what The Pantry wanted to do, but he feared there was not enough room to conduct this type of business. Chair Strawbridge reiterated that there were enough parking spaces to meet the code. Mr. Boyd said they had been working diligently to improve this neighborhood, including the installation of sidewalks, and they wanted one included on this property.

Mr. Boyd asked where the business entrance would be. Ms. Davis explained that there were two entrances, and noted that individuals arrived by appointment. There was also a separate rear door for deliveries. Mr. Boyd was concerned that neither the building owner nor any representative from The Pantry of Broward had attended their Civic Association meetings. Ms. Davis apologized for this oversight, and said she had

consulted a city map and found that no neighborhood was listed for this property. She promised to attend the next Civic Association meeting.

Mr. J.J. Hankerson stated the Civic Association was striving to make this neighborhood better than ever. Members had attended this meeting because they had never met with representatives from The Pantry. He admitted the sidewalk was one of their most important issues.

Mr. Ron Centamore commended The Pantry for their work. He explained that he owned property in the neighborhood. Mr. Centamore said this was a transition neighborhood that had been blighted for many years. He remembered that when the neighborhood had been redeveloped with Townhomes, the City had required the installation of sidewalks, and asked that a sidewalk be required at the property.

Mr. Rene Lepine, Chair of the Zoning Committee of the Civic Association and developer of the town homes in the area, remembered how hard the City had pressed him to install sidewalks in front of his projects. Mr. Lepine said if the sidewalk were installed where Mr. Burgess would request it, the parking spaces would be nonconforming and the property would not meet the rest of the code. He suggested that the Board require the installation of sidewalks, but allow them to be installed on the other side of the property line.

Mr. Jordan suggested they be permitted to wait until after the zoning was granted to install the sidewalk. Mr. Lepine did not want the Board to give them the right to get DRC approval without the sidewalk. He acknowledged the Pantry's services were needed and the Association wanted to work with them.

Ms. Davis explained that it was not simply a sidewalk: It was a curb, a gutter and a drain. She agreed that new development should require sidewalk installations, but this was an existing structure. Chair Strawbridge suggested that instead of the sidewalk, they could install a pedestrian path to avoid the need for curbing and a gutter. Mr. Lepine reiterated that the Association wanted something more delineated than yellow striping.

Mr. Damon Ricks, project engineer, explained that creating a walkway would snowball and require the installation of drainage, and triple the cost. Mr. Dunckel agreed that if the walkway were located in the public right-of-way, it would require engineering permits. He confirmed for chair Strawbridge that the Board could not grant a variance to engineering statutes.

Mr. Shailer agreed to work with the Civic Association to resolve the pedestrian pathway/sidewalk issue.

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

Motion made by Mr. Willey, seconded by Mr. Weihe, to grant the temporary nonconforming variance for six months. In a roll call vote, the vote was as follows: Mr. Larson - no; Ms. Centorino - yes; Mr. Goldman - no; Mr. Jordan - no; Mr. Weihe - yes; Mr. Willey - yes; Chair Strawbridge - no. Motion **failed** 3 - 4.

Motion made by Mr. Weihe seconded by Mr. Larson, to grant the temporary nonconforming variance for nine months. In a roll call vote, the vote was as follows: Mr. Larson - yes; Ms. Centorino - yes; Mr. Goldman - no; Mr. Jordan - yes; Mr. Weihe - yes; Mr. Willey - yes; Chair Strawbridge - yes. Motion **passed** 6 - 1.

Index

5. APPEAL NO. 08-28

APPLICANT: 610, LLC
LEGAL: "Progresso Plat", P.B. 2, P. 18, Block 321, Lots 29, 30, 31, 32, 33 & 34
ZONING: B-3 (Heavy Commercial/Light Industrial Business)
RMM-25 (Residential Multifamily Mid Rise/Medium High Density District)
STREET: 610 NW 3rd Avenue
ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-25.3.A.3.d.i (Neighborhood compatibility requirements – Buffer yard)
Requesting a variance to allow 5.6 feet landscape strip, where Code requires 10 feet.

APPEALING: Section 47-25.3.A.3.d.ii (Neighborhood compatibility requirements – Buffer yard)
Requesting a variance to allow 5.6 feet setback from the property line when adjacent to residential property, where Code requires 12 feet.

APPEALING: Section 47-25.3.A.3.d.iv (Neighborhood compatibility requirements – Wall requirements)
Code requires wall along entire property abutting residential (135 feet), Applicant requesting that existing concrete wall be allowed to remain even though it only extends 115 feet along property line.

APPEALING: Section 47-20.15.5.g (Backout Parking*)*
Requesting a variance to omit the installation of a required 5-foot sidewalk, where Code requires the installation of 5 feet sidewalk.

APPEALING: Section 47-20.15.5.h (Backout Parking)
Requesting a variance to resurface parking area, where Code requires the installation of brick pavers covering parking surface.

Motion made by Mr. Weihe, seconded by Mr. Jordan, to approve all requested variances, tied to the use of the property as The Pantry of Broward as described to the Board. In a roll call vote, the vote was as follows: Mr. Larson - yes; Ms. Centorino - yes; Mr. Goldman - yes; Mr. Jordan - yes; Mr. Weihe - yes; Mr. Willey - yes; Chair Strawbridge - yes. Motion **passed** 7 - 0.

Mr. Shailer confirmed that if a portion of sidewalk were constructed adjacent to the property, they would connect it through.

Request for Re-hearing

Index

6. APPEAL NO. 08-20

APPLICANT: Coral Ridge Ministries Inc.
LEGAL: Coral Ridge Commercial Blvd. add No. 1 52-17 B that PT of TR B & VAC alley lying N of A line, said line being 261.88 N of SW Cor Lot 5 Blk 2, Meas Alg E R/W/L of US 1 & Perpend to said E R/W/L
ZONING: B-1 (Boulevard Business)
STREET: 5554 N. Federal Highway
ADDRESS: Fort Lauderdale, FL

APPEALING: Section 47-22.3.E (General Regulations – Detached freestanding signs and pylon signs)
Requesting a variance to allow sign to be setback 5 feet, where Code requires 20 foot setback when detached signs are located within any zoning district abutting those trafficways subject to the Specific Location Requirements, Interdistrict Corridor Requirements as specified in Section 47-23.9, shall be located a minimum of twenty (20) feet from the property line of the lot or plot on which the sign is located.

Mr. Dunckel reported this item had been deferred.

Index

Report and For the Good of the City

Chair Strawbridge asked staff to phone him when development orders were ready, so he could sign them immediately instead of waiting to do this once a month.

There being no further business to come before the Board, the meeting was adjourned at **11:04 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