

**BOARD OF ADJUSTMENT MEETING**  
**City of Fort Lauderdale**  
**Wednesday, October 8, 2008 – 6:30 P.M.**  
**City Hall City Commission Chambers – 1st Floor**  
**100 North Andrews Avenue**  
**Fort Lauderdale, Florida**

<u><b>Board Members</b></u>	<u><b>Attendance</b></u>	<b>Cumulative Attendance</b>	
		<u><b>Present</b></u>	<u><b>Absent</b></u>
Scott Strawbridge, Chair	P	4	1
Don Larson, Vice Chair	A	4	1
Diane Centorino	P	4	1
David Goldman	P	4	1
Gerald Jordan	P	5	0
Bruce Weihe	P	4	1
Birch Willey	A	4	1
<u><b>Alternates</b></u>			
Michael Madfis	A	4	1
Henry Sniezek	P	5	0
Karl Shallenberger	P	4	1

**Staff**

Bob Dunckel, Assistant City Attorney  
Yvonne Redding, Planner  
Terry Burgess, Chief Zoning Examiner  
Jorg Hruschka, Building Inspector  
John Herbst, City Auditor  
B. Chiappetta, Recording Secretary, ProtoType Services

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**Purpose: Section 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 6:39 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 announced that the City Auditor and city Clerk would make a brief presentation prior to the hearing.

**Approval of Minutes**

Mr. Jordan pointed out an error on page 19.

**Motion** made by Mr. Jordan, seconded by Ms. Centorino, to approve the minutes of the Board's September 2008 meeting as amended. In a voice vote, motion passed 7 - 0.

**Board members disclosed communications they had regarding items on the agenda.**

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

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**1. Appeal No. 08-35**

**APPLICANT:** Christopher and Jenessa Stearns  
**LEGAL:** "Progresso", P.B. 2, P. 18, Block 235, Lots 12 and 13  
**ZONING:** RMM-25 (Residential Multifamily Mid Rise/Medium High Density District)  
**STREET:** 1801 NE 8<sup>th</sup> Street  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-18.8.8 (J) (Child day care facilities – *Dispersal requirements*)**

Requesting a variance to permit a childcare facility to exist 508 feet where Code requires that no childcare facility exist within 1,500 feet of an SSFR (Social Service Residential Facility) above a Level 1 facility.

**APPEALING: Section 47-5.36 (Table of dimensional requirements for the RMM-25 district)**

Requesting a variance to permit a side setback of 6 feet 10 inches, where Code requires 20 feet.

**APPEALING: Section 47-5.36 (Table of dimensional requirements for the RMM-25 district)**

Requesting a variance to permit a rear setback of 19 feet 10 inches, where code requires 20 feet.

**APPEALING: Section 47-5-36 (Table of dimensional requirements for the RMM-25 district)**

Requesting a variance to permit front setback of 15 feet, where Code requires 25 feet.

Mr. Grant Smith, representative of the applicant, requested a 30-day deferral to allow additional time to work with the neighborhood.

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

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**2. Appeal No. 08-36**

**APPLICANT:** Robert N. DeBenedictis  
**LEGAL:** "Birch Ocean Front Subdivision Number Two," P.B. 21, P. 22,  
Block 15, Lots 1 and 2  
**ZONING:** NBRA (North Beach Residential Area District)  
**STREET:** 2909 Vistamar Street  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-19.5.B.3 (Fences, walls and hedges)**

Requesting a variance to allow an after-the-fact wood fence at swimming pool to exist adjacent to existing sidewalk at 0 feet, where Code requires 3 feet.

**APPEALING: Section 47-19.5.B.2.a (Fences, walls and hedges)**

Requesting a variance to allow an after-the-fact wood fence at swimming pool to exist six (6) feet above adjacent grade for privacy, where Code requires 2½ feet in height when located within a site triangle.

**APPEALING: Section 47-19.5.C.2 (Fences, walls and hedges)**

Requesting a variance to allow an after-the-fact wood fence to exist 0 feet adjacent to existing sidewalk without landscaping, where Code states in nonresidential districts, all fences and walls, including chain link fence, shall be required to be planted with hedges, shrubs, groundcover, trees, or a combination thereof.

Mr. Shallenberger pointed out that the documentation he received was unreadable and requested another copy. Chair Strawbridge requested that the applicant relate the points made in the narrative. Mr. Dunckel suggested that the applicant could read a legible copy into the record.

Ashley Goodwin, general contractor, explained how the request met the criteria:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property

Ms. Goodwin stated the original fence was damaged by Hurricane Wilma and if the fence were constructed with the proper setback, it would now be located in the pool.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

Ms. Sunny Prekup, owner, explained that the expediter who had prepared the documentation was ill and could not attend the hearing. She explained that the City pumping station was located across the street and was the source of unpleasant noise and smells. This had required the installation of the 6-foot fence.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property

Ms. Prekup explained that if all requirements were met, they would be unable to use the pool.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

Ms. Prekup said after the original wall was taken down by Hurricane Wilma, the new fence was installed as far back on the property line as was possible.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Ms. Prekup stated there was no through traffic on this street.

Ms. Prekup explained that the fence was on the Birch Road and Vistamar sides of the property. She noted that they must have a fence around the pool or they could not obtain insurance. She said they had applied for a permit in the time soon after the hurricane but had erected the fence without the permit. She stated they were forced to erect a fence as soon as possible because neighborhood kids were using the pool.

Ms. Prekup confirmed that they had changed from a 4-foot wall to a 6-foot fence. The 4-foot cement wall had been built at the sidewalk when the motel was built and Hurricane Wilma had knocked it down to two feet. Ms. Centorino suggested that landscape be added to camouflage the remaining concrete wall. Ms. Prekup agreed to do this.

Mr. Burgess confirmed for Mr. Dunckel that in 1965 when the pool was built, the fence was permitted at the property line. The code had changed two or three times since then. Mr. Burgess was unsure if the 2½-foot maximum height when located within a site triangle had been in effect when the property was built. Mr. Burgess stated the requirement for landscaping outside fences adjacent to sidewalks was not in the code when the original wall was built. Mr. Dunckel concluded that if the hurricane had not taken down the wall, it would have been permitted to exist as non-conforming [except for the maximum height in a site triangle].

Chair Strawbridge suggested Ms. Prekup consult with the Property and Right-of-Way Committee and the Golden Square to investigate the possibility of including landscaping in the pedestrian right-of-way.

Ms. Prekup asked the Board to approve her request.

Chair Strawbridge opened the public hearing.

Mr. Clint Gordon, adjacent property owner, said he understood the need for the fence and requested that the Board approve the request.

Mr. Don Robinson, adjacent neighbor, said he agreed the fence was necessary.

Mr. Jorg Hruschka, Building Inspector, explained that it would not be possible for the applicant to comply with the code requirements and he encouraged the owner to add landscaping. He recommended approval of the variance.

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.

Ms. Centorino recommended including a landscaping requirement in the Board's motion to approve. Chair Strawbridge advised that the Board could wait to rule on the last request until the applicant returned with a landscape plan. The Board agreed they did not want to force the applicant to return with a landscape plan. Ms. Prekup agreed to plant landscaping.

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

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### **3. Appeal No. 08-37**

**APPLICANT:** A. Austin Forman, 1100 West Sunrise, LLC  
**LEGAL:** "Progresso", P.B. 2, P. 18, Block 197, Lots 1-12, 37-48  
**ZONING:** B-1 (Boulevard Business) & B-3 (Heavy Commercial/Light Industrial District)  
**STREET:** 1100 W. Sunrise Boulevard  
**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Section 47-6.11 (list of permitted and conditional uses, Boulevard Business (B-1) District)**

Requesting a variance to allow self-storage in B-1 zoning, where the Code states that it is not permitted.

Ms. Stephanie Toothaker, representative for the applicant, presented an aerial photo of the property and explained it was built in 1984. She displayed a graphic demonstrating that the building suffered from "split zoning" and stated this request was to extend the B-3 Zoning District permitted self storage use into the B-1 Zoning District. Ms. Toothaker

explained they also intended to bring all landscaping up to code, to install pavers on the east and west sides of the building, and to install sidewalks on three sides of the property.

Ms. Toothaker stated if the variance was approved and the sale of the project went through, they anticipated a significant increase in tax revenue from the property.

Ms. Toothaker explained how the request met the criteria:

- a. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

Ms. Toothaker explained it was rare to see a property that existed in two zoning categories simultaneously.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

Ms. Toothaker stated the owner had not created the situation; the zoning was existing.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Ms. Toothaker said they were continuing the B-1 uses on the Sunrise Boulevard frontage. She believed this was the minimum variance that would make for the best use of this property. She added that the use was compatible because it was permitted in the B-3 Zoning District.

Ms. Toothaker had spoken with the pastor from the adjacent church. She believed the church's main objection to this request was that they had hoped to use this property for expand the church.

Mr. Jeff Faulkinger, architect, added that their proposal included updating the entire site's code compliance regarding parking, landscaping and lighting.

Chair Strawbridge strongly advised Mr. Faulkinger to coordinate with the Northwest Progresso CRA regarding the sidewalk and streetscape.

Chair Strawbridge opened the public hearing.

Mr. David Harvin stated this neighborhood group was engaged in the improvement and revitalization of the neighborhood and the elimination of the blight caused by incompatible buildings. They wanted to encourage family and community-related businesses, not commercial and industrial projects. He stated this project would have an adverse impact on the neighborhood, and noted that the area did not want or need warehouses. Mr. Harvin drew the Board's attention to the fact that the request did not meet all of the criteria, and that a variance should not be granted in order to allow the property owner to make more money from a property. He asked the Board to deny the request. Mr. Harvin clarified that he was a member of the board of the New Vision Community Development Corporation [CDC] and was a member of the church ministry. He was not representing a recognized neighborhood civic association. The letter he had read from was written by another member of the New vision CDC. The board supported this position, but had not had time to take a vote prior to this hearing

Mr. Rosby Glover, Executive director of Mount Bethel Human Services Corporation, the social service arm of the Mount Bethel Baptist Church, said he had spoken with families in the adjacent community, and they had indicated they wanted a family-friendly business in the area.

Ms. Jacqueline Tufts, Executive director of the New Vision CDC, explained that they worked to revitalize the neighborhood in order to create jobs and wealth in home ownership. She believed this project would not further this goal, and asked the Board to deny the request. Chair Strawbridge noted that the rear of this property could legally be used for many high-traffic, high noise, high activity businesses, and the proposed business would continue to operate as a retail establishment, and he wondered why the community opposed this, considering the possible alternatives. Ms. Tufts remarked that the proposed use would create very few jobs, compared to a regular retail establishment. Ms. Tufts felt a storage facility would be an eyesore on Sunrise Boulevard. Chair Strawbridge noted that the façade facing the street would not change.

Ms. Pamela Harris, Mount Bethel Church member, said her main concern was that a self-storage facility was not something her community needed and it would mainly serve members of another community. She noted that this was a large building, but a self-storage facility would only provide a few jobs. Ms. Harris asked the Board to deny the request.

Mr. Curtis Artis asked the Board to deny the request and wanted family-friendly businesses to move into the space.

Ms. Hattie McDowell asked Board members if they would like a self-storage facility beside their churches and schools.



Mr. Vernon Shazier was concerned about “spot zoning” which brought liquor stores, junkyards and aluminum factories into his community. He wanted to bring in businesses that would reflect the values they wanted to promote. He felt this owner had no concern for the community, but only for his own benefit.

Chair Strawbridge informed Mr. Shazier that the Zoning Code in this area already allowed property owners certain types of businesses that the community could not stop. He asked if Mr. Shazier felt it would be fair to require him to allow the community to determine the proper use of his property. Mr. Shazier reminded Chair Strawbridge that this request was before the Board because the Zoning Code did not allow a self-storage unit in a B-1 zone.

Mr. Lloyd Berger said he had represented the property since 1992, and explained that over the years they had turned down many tenants that were not compatible with the community. He noted that they could already house a self-storage in the facility except for a 20-foot center section of the building. Mr. Berger felt this solution would create a strip shopping center with leasable bays along Sunrise Boulevard.

Mr. Dunckel thought the request related to the second floor section of the building in the B-1 zone, not a 20-foot section. He noted that the site plan showed the bays fronting Sunrise Boulevard were 50 feet deep and the dividing line between the B-1 and B-3 was another 20+ feet. Ms. Toothaker said this was correct; the retail bays would be brought to 50 feet. She pointed out the area for which the variance was sought, and explained it include 20 feet on the ground floor, not just the mezzanine. Ms. Toothaker submitted the specific square footages that would limit and except out an area of the facility.

Mr. Weihe asked why, other than the financial hardship, they needed 50-foot deep bays instead of 75-foot. Mr. Faulkinger said the building code required an additional rear exit for a 75-foot bay, which would present access issues. The leasing agent believed the smaller bays would be more leasable. Mr. Berger said tenants also wanted more frontage, not depth.

Mr. Weihe asked if the applicant had met with the CDC or the church to explain that the property could be used for a self-storage facility. Ms. Toothaker said she had not, but that she and the owner had spoken with the pastor, and his objection related to his wish to use the space for the church.

Mr. Sneizek asked why the second floor had never been utilized for B-1 use. Mr. Berger said they had “cheated” over the years and utilized the second floor for things that “probably would not have been acceptable in a B-1.” He agreed it was not economically viable.

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.

Ms. Toothaker reiterated that in a B-3 zone, this was an already permitted use and this was a "far less noxious use than all of the uses we could put into B-3." Ms. Toothaker said all of the residents who had spoken in opposition to the request were members of the Mount Bethel Church, and the Board should "figure out what is their motivation for asking for this to be turned down" since the pastor was upset because he had hoped to expand the church onto this site. She thought the church might want to buy the property, but she did not know if they had the ability.

Regarding the criteria, Ms. Toothaker reiterated that this was a unique circumstance, that this was compatible with the adjacent properties, that the hardship was not self-created, but related to the split zoning that existed prior to the building construction, and that this was the minimum variance needed to make for the best and highest use of the property.

Mr. Weihe referred to the application, and drew Ms. Toothaker's attention to criterion C: That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district.

Mr. Weihe asked what property right an adjacent property owner enjoyed that would be denied to this owner if the variance were not granted. Ms. Toothaker replied that they wanted to have a uniform use in one building. Mr. Weihe asked if the adjacent building was split zoned as well. Mr. Faulkinger believed that the zoning line continued. Mr. Berger said the building to the east was almost identical to theirs, and he stated that tenants in that building did not follow the split zoning either.

Mr. Weihe quoted from the application, "Literal application of the ULDR would completely prevent the applicant from being able to use the entire property" and asked how this was so. Ms. Toothaker said if the variance was not granted, they could use most, but not all of the property.

Chair Strawbridge reopened the public hearing.

Mr. Shazier said there were enough self-storage facilities in the community already. He felt if this were permitted, it would open the door for subsequent owners to turn the building into a warehouse. He believed the intent of the zoning was to prevent Sunrise Boulevard from becoming a warehouse district. Mr. Shazier feared that the frontage would be used for storage, not for retail. Chair Strawbridge stated this would not be

legal. He advised the CDC to advocate to have the zoning changed to stop allowing storage or warehousing in buildings in this area.

Mr. Goldman asked if it was true that the church wanted to use the property to expand. Mr. Shazier said they had investigated leasing the property in the past, but this was not their sole concern. He said Pastor Glover's conversation regarding his concerns "has been presented...in a manipulative fashion; it does not express what Dr. Glover believes and what all his issues and concerns are. To make a call last night to us trying to talk us out of showing up here, and then to come and misrepresent Dr. Glover, I have a problem with that." Mr. Shazier reiterated that their concerns went beyond whether the church could utilize the property. The residents were here representing the concerns of the community. They did not see how this request would benefit the community.

Ms. Tufts confirmed that no one had spoken with the CDC. She noted there was a school behind the building and she felt this use presented a danger to the children.

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. Dunckel said the Board required more specifics for square footage and location. Mr. Faulkinger referred to the last two blocks adjacent to the south end of the B-1 zoning. Mr. Dunckel stated he would describe this as "the north 28 feet of the south 75 feet of the building."

Mr. Dunckel clarified for Mr. Snizek that the variance would allow self-storage on the north 28 feet of the south 75 feet of the first floor building. The top floor would be self-storage. This would not interfere with the retail use on the Sunrise Boulevard footage.

**Motion** made by Mr. Shallenberger, seconded by Mr. Jordan, to approve the variance with Mr. Dunckel's amendments. Mr. Dunckel stated the variance was "to allow a self-storage use as to the south 75 feet of the second floor and the north 28 feet of the south 75 feet of the first floor."

Mr. Goldman commented that use variances were not the proper vehicle to permit a non-allowed use in the zoning district. He referred to the variance criteria, and noted that this request did not meet all the criteria, especially criterion C.

Mr. Weihe remembered Ms. Harris saying that the neighborhood wanted a "say-so" regarding the uses, and he remarked that the "say-so" was the City ordinances, which stated this use was not permitted. He had not seen proof that this request met the criteria for a variance.

Ms. Centorino feared the neighborhood might be misunderstanding the request. She said the neighborhood would still have the retail and therefore the opportunities for jobs. Since the bays would be smaller, she felt they would be easier to rent. Ms. Centorino said she did not want to vote against the neighborhood, but she did not feel this proposal was in conflict with the neighborhood's goals.

Ms. Toothaker confirmed that the variance request conformed with the motion on the floor. Mr. Dunckel asked Mr. Burgess what other uses could be utilized on the first floor that would not require parking sacrifice; Mr. Burgess answered a furniture or appliance store.

Mr. Dunckel reminded the Board that the City allowed use variances, but this entailed a stricter level of scrutiny regarding the criteria than a variance for area or setbacks.

In a roll call vote, the vote was as follows: Ms. Centorino - no; Mr. Goldman – no; Mr. Jordan - yes; Mr. Shallenberger – yes; Mr. Sniezek – yes; Mr. Weihe – no; Chair Strawbridge - no. Motion **failed** 3 - 4.

### Rehearing

#### 4. Appeal No. 08-20

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**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 existing 14 foot sign previously approved and permitted to be modified to reduce height to 11 feet with 5 foot setback, where the above referenced provision of the code requires a 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 site is located except for ground signs which shall have a five (5) foot setback, and shall not be located in the sight triangle.

The Board of Adjustment **DENIED** this application by a vote of 0 in favor and 7 against on June 11, 2008.

Mr. William Ashcraft, representative of the applicant, reminded the Board that they had hired a sign company to design the sign, but had discovered after the sign was built that neither the City nor the sign designer had noticed that the property was in an Interdistrict Corridor, requiring a 20-foot instead of a 5-foot setback from the property line. Mr. Ashcraft noted that the sign would be code-compliant except for the recent enactment of the Interdistrict Corridor.

Mr. Ashcraft believed this request satisfied the five criteria, and the solution he proposed was in harmony with the North US 1 Urban Design Plan. He explained that the building currently had no signage and therefore blended in well with the neighborhood.

Mr. Ashcraft then addressed the variance criteria:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property

Mr. Ashcraft explained that the building continued to operate as an office building; the monument sign replacing a building sign made the building appear less commercial and therefore more compatible with the surrounding community.

Mr. Ashcraft stated they intended to cut the sign down to 11 feet. He pointed out that there was nowhere on the property beyond the 20-foot setback to relocate the sign where it would not be blocking a driveway. Mr. Ashcraft said the sign now came closer to the spirit and design goals of the North US 1 Urban Design Plan than anything else they could do that would be code compliant.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

Mr. Ashcraft pointed out that this was a narrow lot for a commercial property. The Design Plan called for a 20-foot yard in the front of the property but this was not possible on this property without redevelopment.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property

Mr. Ashcraft said most nearby businesses had signs set back five feet. He felt their sign was the most attractive in the area.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

Mr. Ashcraft stated the property was compliant until the North US 1 Urban Design Plan was enacted. They had researched the code, and he remarked that “this is a drafting style that would do the draftsman of the Internal Revenue Code proud; it’s just difficult to understand.”

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Mr. Ashcraft noted that the existing sign, with the gabled top was compatible with the surrounding community, whereas if they removed the gable and left a flat-topped sign to be closer to compliance, the sign would no longer be as compatible. He felt there was no way to be code compliant, given the configuration of the property.

Mr. Ashcraft read from the North US 1 Urban Design Plan, which indicated that guidelines should be interpreted in light of individual site circumstances.

Mr. Burgess explained that the variance for the location was needed because of the height; if the sign was higher than 5 feet, it must be back 20 feet.

Mr. Jordan noted that the applicant had done all he could do when applying for the permit. He felt this was a nice sign, and said he would support it if the gable was removed to bring the sign down to 11 feet.

Chair Strawbridge explained to the Board that the Board’s previous granting of a re-hearing, the Board vacated their denial. This was a new case, not a re-hearing of the original case.

Chair Strawbridge announced that Mr. Cochran, who was member of the Executive Commission of the Board of Directors of Knox Seminary, also frequently advised the City on land use matters.

Mr. Cochran explained that the sign company had appeared before the Board for the first variance request and he believed that he and Mr. Ashcraft had additional issues to bring up that the sign company had missed, and they wanted to work with the City to get the sign as close as possible to the letter of law. He reminded the Board that if they tried to create a front yard to accommodate the monument sign, they would no longer comply with parking requirements. He felt the changes to the sign and the variance would allow them to meet the intent of the code. Chair Strawbridge added that in the new application, they had included mitigation.

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.

Ms. Centorino agreed this was an attractive design that was compatible with the community.

**Motion** made by Mr. Sniezek, seconded by Mr. Jordan, to approve, on condition that the sign was no more than 11 feet tall.

A few Board members said they would vote to approve the sign as it was, without the removal of the gable roof and the reduction to 11 feet. Mr. Dunckel cautioned the Board that they could not vote on that this evening because it would be granting a variance in excess of the request; this would require another notice to the neighborhood and another hearing.

Chair Strawbridge said if the Board allowed another re-application other applicants might believe they had been treated unfairly and advised against it.

In a roll call vote, the vote was as follows: Ms. Centorino - yes; Mr. Goldman – yes; Mr. Jordan - yes; Mr. Shallenberger – yes; Mr. Sniezek – yes; Mr. Weihe – yes; Chair Strawbridge - yes. Motion **passed** 7 - 0.

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

### **City Auditor Presentation**

Mr. Herbst explained that there would be a Charter Amendment question on the November Ballot to allow the City Clerk and City Auditor to hire and supervise their own staff. He informed the Board that this was already being done in practice.

There being no further business to come before the Board, the meeting was adjourned at **9:12 p.m.**

Chair:

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Chair Scott Strawbridge

Attest:

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ProtoType Inc.

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

Minutes prepared by: J. Opperlee, Prototype Services