

**BOARD OF ADJUSTMENT MEETING**  
**City of Fort Lauderdale**  
**Wednesday, August 12, 2009 – 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>
Diane Waterous Centorino, Chair	A	1	2
Don Larson, Vice Chair	P	3	0
Caldwell Cooper	P	3	0
Gerald Jordan	P	3	0
Michael Madfis	P	3	0
Bruce Weihe	P	3	0
Birch Willey	P	3	0
<u><b>Alternates</b></u>			
Henry Sniezek	A	2	1
Mary Graham	P	2	0
Karl Shallenberger	P	2	1

**Staff**

Bob Dunckel, Assistant City Attorney  
Cheryl Felder, Service Clerk  
Yvonne Blackman, Secretary  
Terry Burgess, Zoning Administrator  
Mohammed Malik, Chief Zoning Plans Examiner  
B. Chiappetta, Recording Secretary, ProtoType Services

**Communication to the City Commission**

None

**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.

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	<b><u>Appeal</u></b>		<b><u>Page</u></b>	<b><u>District</u></b>
	<b><u>Number</u></b>	<b><u>Applicant</u></b>		
1.	<b>09-23</b>	Robert T. Williamson Revocable Living Trust	<b><u>2</u></b>	<b>4</b>
2.	<b>09-24</b>	Robert Seymour	<b><u>5</u></b>	<b>3</b>
3.	<b>09-25</b>	Landfall Holdings, LLC	<b><u>6</u></b>	<b>3</b>
		<b>For the Good of the City</b>	<b><u>8</u></b>	

**Call to Order**

Vice Chair Larson called the meeting to order at 6:34 p.m. He introduced the Board members and described the functions of the Board and procedures that would be followed for the meeting.

Mr. Weihe remarked that three people who meant a great deal to the community had passed away recently: Buddy Lochrie, Roland Molinet and Peter Feldman. Mr. Weihe requested a moment of silence. The Board observed a moment of silence in their memory.

**Approval of Minutes – July 2009**

**Motion** made by Mr. Cooper, seconded by Mr. Jordan, to approve the minutes of the Board's July meeting. In a voice vote, motion passed unanimously.

**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. Applicant: **Robert T. Williamson Revocable Living Trust** 09-23

Request: **APPEALING: Section 47-22.4.A.1 (Maximum number of signs at one location and special**

**requirements in zoning districts- *single business building***

Requesting a variance to allow 5 signs, where Code states that the total number of signs on any one (1) lot or plot shall not exceed four (4).

Legal Description      “Corrected Plat of Everglade Land Sales Company’s First Addition to Lauderdale, Florida,” P.B. 2, P. 15, Block 18, Lots 13, 14, 15, 16 & 17 less the W.25 thereof, and Lot 18 less the W.25 Feet thereof, and Lots 19, 20, 21, 22 & 23, as more particularly described in the application for a variance for Appeal No. 09-23, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

Address:                      1700 S. Federal Highway

Zoning:                        B-1 (Boulevard Business)

District:                      4

Mr. Craig McDonald, representative of the applicant, stated they were requesting a monument sign on the corner of the property at Federal Highway and 17<sup>th</sup> Street. He explained there were no provisions in the code for a multiple use business/office building, which this was. They currently had four signs on the building facing Federal Highway and the 17<sup>th</sup> Street Causeway and wished to install a fifth sign to identify the CVS Pharmacy and the second use, the Minute Clinic.

Regarding the first criterion for a variance:

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

Mr. McDonald stated the building was clearly for two distinct uses, and there were two business tax licenses. He noted that there were currently no signs to identify the Minute Clinic.

Regarding the second criterion:

- 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. McDonald said this type of multiple-use building was clearly a special condition that was not addressed in the zoning code signage section.

Regarding the third 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. 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. McDonald read the portion of the ordinance that explained the intent of the sign requirements that indicated the City meant to “enhance the efficiency of land use and land use planning...” Mr. McDonald stated multiple uses in one building was an efficient urban planning concept, as opposed to construction of multiple buildings for separate uses, so a literal interpretation under the single-business building would penalize a more efficient planning concept and deprive the applicant of adequate business use identification as afforded to other businesses in the B-1 district.

Regarding the fourth criterion:

- 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. McDonald said the hardship was not self-created in that the signage code did not address this particular situation.

Regarding the last criterion:

- 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. McDonald stated the sign the applicant wished to install would meet the maximum height, but would only be 28.34 square feet, while linear frontage allowed up to 245 square feet.

Mr. McDonald explained the sign would be located at the intersection of Federal Highway and 17<sup>th</sup> Street, was compatible with the surrounding uses and would not be detrimental to the public.

Mr. Madfis noted that the applicant could have installed a generic “medical office” sign as one of the point-of-purchase signs.

Mr. McDonald clarified that the clinic was a division of CVS Pharmacy, operated as a separate business with a separate license.

Mr. Willey noted there was already “a lot of clutter” in the area, and suggested replacing one of the “Open 24 Hours” signs with a medical office sign. He felt the reason the code made no provision to accommodate what the applicant was requesting was because the City wanted to limit the number of signs on a piece of property.

Mr. McDonald explained to Mr. Cooper that in 2006, the CVS retail use was established and in 2007 the site plan was modified to include the separate use. Mr. Cooper noted that the clinic was operated by and located inside the CVS.

Mr. Dunckel felt the business tax argument was not valid for the signage request, noting that a separate license was also required for businesses that sold alcoholic beverages.

Mr. Jordan agreed there were already enough signs in the area.

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

**Motion** made by Mr. Weihe, seconded by Mr. Jordan, to approve. In a roll call, motion **failed** 0 - 7.

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**2. Applicant: Robert Seymour**

**09-24**

**Request:**

**APPEALING: Section 47- 5.31 (Table of dimensional requirements for the RS-8 District)**

Requesting a variance to permit a 12 foot 6 inches front yard setback, where Code requires a 25 foot front yard setback.

**Legal Description:**

“Fairfax Broliar Addition- Section 5,” P.B. 40, P. 27,

Block T, Lot 1.  
Address: 3611 SW 21<sup>st</sup> Street  
Zoning: RS-8 (Residential Single Family Low Medium Density District)  
District: 3

The architect for this request was late and the applicant agreed to hear the case later in the meeting.

Upon returning to the case, Kevin McMichael, representative of the applicant, provided a rough sketch of the proposal and noted the unique shape of the property because the street ran at an angle.

Mr. Madfis agreed this was a unique property, but did not feel this was the least variance required to achieve a reasonable use of the property. If the owner stated an intent to use one of the yards as a rear yard, Mr. Madfis said this might be a more viable request. Mr. McMichael agreed the side driveway could be excluded from the design.

Mr. Dunckel agreed with Mr. Madfis that eliminating a driveway and fencing the yard as a rear yard would make for a more viable argument. He suggested Mr. McMichael request a continuance to confer with Zoning to discuss this. Mr. McMichael agreed.

**Motion** made by Mr. Willey, seconded by Mr. Madfis, to grant a continuance to the Board's October meeting. In a voice vote, motion passed 7 – 0.

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**3. Applicant: Landfall Holdings, LLC**

**09-25**

**Request:**                    **APPEALING:**                    **Section 47-13.14**  
Requesting a variance to permit a contractor's yard in the RAC-WMU district, where it is not listed as a permitted use pursuant to Section 47-13.14

**Legal Description:**        Amend PL SUB Blk. 7 Ft.Laud. P.B. 1, P. 60, Block A, Lots 17 & 18

Address: 107 NW 7<sup>th</sup> Avenue

Zoning: RAC-WMU

District 3

[This case was heard out of order]

Mr. Jonathan Lakso, property owner, stated this was a “truly unique” property. Formerly, the property had been a junkyard, and Mr. Lakso explained he had performed significant improvements since purchasing it. His goal was to lease the property for an active use, which he felt would help discourage vandalism. Mr. Lakso said he needed the active use on the property or it would be rendered worthless, and he hoped this met the criteria for a variance.

Mr. Shallenberger said the request did not currently meet the criteria. He felt if there were a tenant, Mr. Lakso could inform the Board how the request met the specific criteria for a variance and Mr. Shallenberger might agree.

Mr. Lakso said his hardship was that every prospective tenant was rejected under this code. Mr. Shallenberger felt Mr. Lakso’s problem was more with the zoning regulations. Mr. Lakso believed that the need for an active use on the property was the hardship; without this, the property was worthless.

Mr. Madfis noted the property was zoned for many uses; a contractor was not the only choice.

Mr. Weihe felt the hardship could be that when Mr. Lakso purchased the property, he was led to believe by the code language that it could be used for a contractor’s business.

Mr. Larson agreed the property had a hardship, but it was not the sort that the Board could address. Mr. Lakso stated the City had advised him to get the variance before he secured another tenant. Mr. Larson recommended Mr. Lakso find a tenant and then appear before the Board.

Mr. Dunckel said the code provision did not mention contractor’s yard, and it clearly stated the property must be within 60 feet of a railroad track. He cautioned that if the Board considered this request for a use variance, it was taking on the role of the legislative body to rewrite the zoning code. This property had previously been zoned

industrial, which included contractors' yards, but the City had rezoned it RAC-WMU. Mr. Dunckel read from the ordinance that described the zoning, and said the goal was to provide a transition area between high intensity uses and residential, and to remove industrial uses over time.

Mr. Cooper said he had spoken with Commissioner DuBose regarding this property, which was in his district, and he had informed Mr. Cooper that City planners had a Comprehensive Plan and a vision for this area, which was a gateway into the downtown area.

Mr. Weihe and Mr. Larson advised Mr. Lakso to withdraw his application because if he lost his appeal this evening, he would be prohibited from reapplying for another for two years.

Mr. Lakso withdrew his request.

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### **Report and for the good of the City**

Mr. Jordan announced the Board's September meeting had been cancelled by the City Clerk's office.

Mr. Wiley asked Mr. Burgess what had happened with the applicant who was requesting a sauna and a walkway. Mr. Burgess stated the applicant asked that the case be continued to the next meeting to allow him to redesign the project.

They're being no further business to come before the Board; the meeting was adjourned at **7:45 p.m.**

Chair:

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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