

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, JANUARY 13, 2010 – 6:30 P.M.  
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

<b>Board Members</b>	<b>Attendance</b>	<b>Cumulative Attendance 6/2009 through 5/2010</b>	
		<b>Present</b>	<b>Absent</b>
Diane Waterous Centorino, Chair	P	5	2
Caldwell Cooper	P	7	0
Gerald Jordan	P	6	1
Michael Madfis	P	7	0
Bruce Weihe	P	7	0
Birch Willey	P	7	0
Henry Sniezek	P	5	2
 <b>Alternates</b>			
Mary Graham	A	3	3
Karl Shallenberger	P	6	1

**Staff**

Bob Dunckel, Assistant City Attorney  
Cheryl Felder, Service Clerk  
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 Number</u></b>	<b><u>Applicant</u></b>	<b><u>Page</u></b>	<b><u>District</u></b>
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2.	<b>09-39</b>	101 East Sunrise LLC	<b><u>4</u></b>	<b>1</b>
3.	<b>09-30</b>	R J D Corporation	<b><u>7</u></b>	<b>1</b>
		<b>For the Good of the City</b>	<b><u>8</u></b>	

**Call to Order**

Chair Centorino called the meeting to order at 6:33 p.m. She introduced Board members and described the functions of the Board and procedures that would be followed for the meeting.

**Approval of Minutes – December 2009**

**Motion** made by Mr. Cooper, seconded by Mr. Jordan, to approve the minutes of the Board's December 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. **Appeal No. 09-38**

**APPLICANT:** Brenda L. Flowers  
**LEGAL:** LAKE AIRE ESTATES 54-15 B LOT19 BLK 2  
**ZONING:** RS- 8(Residential Single Family/Low Medium Density District  
**ADDRESS:** 1801 NW 27 TERRACE  
**DISTRICT:** 2

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

Requesting a variance to permit a thirteen (13) feet, seven (7) inch rear yard setback, where the code requires fifteen (15) feet.

Mr. Madfis asked Mr. Burgess if an accessory use would be permitted. Mr. Burgess explained the 15-foot setback would apply unless the structure was less than 100 square feet.

Ms. Brenda Flowers, applicant, explained that her disabled mother had come to live with her and she was constructing the addition for her mother's living space. She stated an error had been made when the addition was constructed and it was intruding into the setback. Ms. Flowers said all of her neighbors supported her request.

Ms. Flowers explained to Mr. Cooper that the addition was complete up to the roofing. The error had been discovered on the third inspection when the inspector requested a survey. Mr. Burgess stated the error was caught at a spot survey prior to inspection. He confirmed that the plans showed the correct 15-foot setback.

Ms. Flowers noted the negative impact removal of the encroaching portion of the addition would have on the neighborhood. Mr. Madfis acknowledged there would also be a negative impact on the environment.

Mr. William Scherer, attorney, stated there would be a hardship if Ms. Flowers' mother's living space were reduced and the demolition would have an adverse affect on the neighborhood. Mr. Weihe agreed.

Mr. Jordan disagreed, and stated if he, as a contractor, made a 17-inch mistake, he would have to cut the addition back and make it right. Ms. Flowers informed Mr. Jordan that she was the owner/builder and she realized this had been a mistake. Mr. Madfis pointed out that only a portion of the back of the building was encroaching, and the side setbacks were greater than required, so the overall impact of the home on the site was less.

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

**Motion** made by Mr. Weihe, seconded by Mr. Cooper, to approve.

Mr. Dunckel suggested the Board consider adding the following conditions: That the variance be limited to the first floor elevation and to the area shown on the survey that was currently under discussion. Mr. Weihe and Mr. Cooper accepted this amendment.

In a voice vote, **motion** passed 7 - 0.

**2. Appeal No. 09-39**

**APPLICANT:** 101 East Sunrise LLC, Attn Garrett Hayim  
**LEGAL:** HOYS BUSINESS CENTER 39-11 B LOT 5 LESS S 10 BLK 1  
**ZONING:** B-1 (BOULEVARD BUSINESS DISTRICT)  
**ADDRESS:** 5750 North Federal Highway  
**DISTRICT:** 1

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

Requesting a variance to permit major automotive repair on property zoned B-1, where the code prohibits this use.

**APPEALING: Section 47-19.5 Fences, walls and hedges.**

Requesting a variance to permit construction of a wall with a setback of zero (0) feet along NE 27 Avenue, where the code requires three (3) feet.

Mr. Dunckel confirmed for Mr. Sniezek that approval of this variance would not apply Citywide; it would only apply to this property.

Mr. Scherer introduced himself and his client, Stuart Hayim, owner of the Fort Lauderdale Ferrari facility. Mr. Scherer stated Mr. Hayim had worked with the neighbors to resolve a long-standing problem.

Mr. Scherer explained that after construction started, it was discovered that it did not conform to Code. They had stopped construction, redesigned the facility and discovered that they had lost their grandfathering and this was now a non-conforming use. Mr. Scherer said this facility was enclosed, soundproofed and air-conditioned.

Mr. Scherer continued that the neighbors opposed the use of NE 27<sup>th</sup> Avenue by the dealership. Mr. Hayim had agreed to wall the dealership off and not use NE 27<sup>th</sup> Avenue anymore to access the property.

Mr. Scherer stated modern automotive repair was completely different from when the Code was written. He explained that if this variance were not granted, cars would be taken to the adjacent Maserati shop next door, which had open service bays and was grandfathered in for automotive repair. This would have a much higher impact on the neighborhood than performing repairs in the new facility.

Mr. Scherer displayed plans showing where the wall would be located, and pointed out that locating the wall and landscaping within the setback would accommodate the back of the Maserati building and then return to the proper setback to the end of the Ferrari,

Maserati, Range Rover property. He showed photos of the finished Ferrari facility and the new wall and landscaping. Mr. Scherer said a chain link fence and minimal landscaping had previously separated the property from the neighborhood to the east. He confirmed for Mr. Dunckel that they intended to extend the existing wall from the new facility to the next building.

Mr. Scherer believed some neighbors were present to discuss the solution to end the contentious issues that had been before the City on numerous occasions for 20 years.

Mr. Cooper asked what the purpose was to extend the wall out behind the building when it currently dead-ended at the building. Mr. Joe Handley, engineer, said this was to provide continuity on the streetscape.

Mr. Willey noted that the wall would not be continuous; it would skip one property. Mr. Scherer agreed this was true.

Chair Centorino opened the public hearing.

Ms. Linda Bird, President of the Lakes Estates Improvement Association, said Mr. Hayim had met every request from the homeowners association and kept every promise. She confirmed there had been problems with this property for 20 years.

Ms. Bird reminded the Board that there had been a major effort to change the zoning from B-2 to B-1, and they supported the change back to B-2 because Mr. Hayim had constructed a beautiful wall and ample landscaping and had involved the neighbors every step of the way. She said the second phase was to continue the wall in front of the Maserati dealership along 27<sup>th</sup> Avenue, with the exception of the Doctor's office.

Ms. Bird stated the neighbors were thrilled about the fact that they could not hear noise from repairs taking place at the facility.

Ms. Bird announced members of the homeowners association were present to inform the Board of the difference this project had made to the neighborhood.

Ms. Bird informed Mr. Cooper that approximately 60 households out of 168 total belonged to the neighborhood association. She said all members were kept aware of the project via email, and approximately 75 people had attended their holiday party on January 1.

Mr. Paul Sandmann, member of the neighborhood association, stated he lived adjacent to the site, and that all adjacent property owners had discussed this project and were in favor of it. He agreed that Mr. Hayim had been very cooperative with the neighborhood.

Mr. Cooper remembered how much rancor this property had caused in the past between a former owner and the neighborhood. He was amazed that the neighborhood and the business had been able to resolve this problem. Mr. Jordan agreed, and also stated he appreciated the jobs that this would bring to the City.

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

**Motion** made by Mr. Weihe, seconded by Mr. Cooper, to approve.

Mr. Dunckel advised the Board to include several conditions in the motion: include the more lush landscaping; maintain the wall; secure the large steel gate on the far southern end of the property between lots 9 and 10; maintain the existing soundproofing system on the building where the major repairs were going to be.

Mr. Sandmann stated the letters also included maintaining appropriate operational procedures. Mr. Scherer agreed they intended to maintain the wall in perpetuity, keep the gate onto the easement locked, maintain lush landscaping and keep the service facility state of the art.

Mr. Handley explained there was no landscape plan to show the Board, but the plans showed what trees would be put in. Mr. Willey suggested requiring that the landscape plan to be approved by City staff would meet the criterion of "lush." Mr. Scherer stated the landscaping would match the landscaping along the existing wall.

Mr. Weihe agreed to amend the motion to require that the landscaping would be consistent with representations made this evening and would be maintained, the wall would be built consistent with the requirements of the City and would be maintained in perpetuity, the gate would be locked and the facility would be soundproofed. Mr. Cooper accepted the amendment.

In a roll call vote regarding Section 47- 6.11, **motion** passed 7 - 0.

Mr. Willey wondered what would happen if the Ferrari dealership left, and if the neighbors would still want the wall if the property were sold. Mr. Dunckel remarked that maintaining the wall in perpetuity would ensure the separation of the business traffic from the neighborhood.

In a roll call vote regarding Section 47-19.5, **motion** passed 7 - 0.

## **REQUEST FOR REHEARING**

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### **APPEAL NO. 09-30**

**APPLICANT:** R J D Corporation- Robert J. Davis  
**LEGAL:** Fort Lauderdale Industrial Airpark Sec 1 63-10 B Lot 19  
**ZONING:** AIP (Airport Industrial Park)  
**ADDRESS:** 4987 NW 23 Avenue  
**DISTRICT:** 1

### **APPEALING: Section 47-14.11 (List of permitted and conditional uses, AIP District)**

Requesting a variance to permit product assembly of previously approved materials (steel and miscellaneous) in the Airport Industrial Park District, where the code does not list product assembly of previously approved materials as a permitted use.

The Board of Adjustment DENIED this application by a vote of 3 in favor and 4 against on November 12, 2009.

Mr. William Laystrom, attorney for the applicant, said his office had assisted Mr. Davis with the purchase of a piece of property in the Airport Industrial Park [AIP] and had requested a zoning letter from Mr. Burgess' office so Mr. Davis could relocate to the site. Through a series of emails, they had obtained approvals that were not part of the original application, which had been handled by the architect and the construction manager. The architect and construction manager had appeared before the Board because after discussions with Mr. Burgess, they were concerned whether the proposed uses would be permissible. They were unaware of Mr. Laystrom's file with the approval documents.

As of now, Mr. Laystrom said they had "purchased the building, done the plans; we're halfway there and we're desperate." He requested the opportunity to convince the Board that they were entitled to a variance. In the interim, Mr. Laystrom said they would "absolutely come up with exactly what this business does" because he believed most, if not all of the uses were within the existing definitions in the AIP.

Mr. Bob Davis, property owner, said he had begun his business in Fort Lauderdale in 1986 and felt privileged to live here. He explained he had hired a construction manager who insisted the variance was "just a formality." If he had known this was not the case, Mr. Davis said he would have attended the hearing. Mr. Davis requested the rehearing to "present what it is I really do" after which he believed there would be no issue.

Mr. Weihe could not find the emails to which Mr. Laystrom referred. Mr. Laystrom said these were attachments to the letter he had sent. Mr. Weihe said this was perhaps new evidence the Board could consider. Mr. Laystrom agreed to provide these to the Board, Mr. Dunckel and Mr. Burgess.

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

**Motion** made by Mr. Jordan, seconded by Mr. Madfis, to approve the request for a rehearing. In a roll call vote, motion passed 7 - 0. Rehearing to be scheduled for the March 2010 Board of Adjustment hearing.

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

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Chair Centorino referred to an email from Justin Tolle to Chris Wren regarding the FAU/BCC parking lot, requesting additional time.

Mr. Willey said a college representative was “modestly confident that they’re going to get that worked out” and was anxious for the Board to grant an extension. Mr. Willey advised him to have the DDA submit something, and now Mr. Wren was involved. Mr. Willey favored granting at least a one-month extension.

**Motion** made by Mr. Willey, seconded by Mr. Weihe, to grant an extension to the Board’s March 2010 meeting. In a voice vote, Motion passed unanimously.

Mr. Cooper was concerned about emails before the meeting indicating whether or not a Board member intended to attend. Mr. Dunckel stated this was not a violation of Sunshine Law, but advised Board members to communicate with staff regarding attendance. He pointed out that all alternates were supposed to attend meetings until excused. Mr. Dunckel agreed to discuss this with the person transmitting the emails.

Mr. Cooper was concerned about the number of cases that involved work encroaching into setbacks, and asked if the City should inspect earlier in the construction process. Mr. Burgess explained a spot survey was required prior to the tie beam inspection, and this was when mistakes were caught. Mr. Madfis said in the case this evening, he had considered the variance a better solution than demolition. Mr. Jordan felt the current system was fair.



There being no further business to come before the Board, the meeting was adjourned at 7:59 p.m.

Chair:

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Chair Waterous Centorino

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