

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, NOVEMBER 10, 2010 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

Board Members	Attendance	Cumulative Attendance 6/2010 through 5/2011	
		Present	Absent
Diana Waterous Centorino, Chair	P	4	2
Michael Madfis, Vice Chair	P	5	1
Caldwell Cooper	P	6	0
Gerald Jordan	P	5	1
Karl Shallenberger	A	4	2
Henry Sniezek	A	5	1
Birch Willey	P	6	0
Alternates			
Mary Graham	P	5	1
Fred Stresau	P	5	1
Sharon A. Zamojski	A	2	1

Staff

Bob Dunckel, Assistant City Attorney
Terry Burgess, Zoning Administrator
Yvonne Blackman, secretary
Mohammed Malik, Chief Zoning Plans Examiner
B. Chiappetta, Recording Secretary, Prototype Inc.

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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Call to Order

Chair Centorino called the meeting to order at 6:31 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 – October 2010

Motion made by Mr. Jordan, seconded by Mr. Cooper, to approve the minutes of the Board's October 2010 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. 10-38 (Deferred from October 13, 2010)**

APPLICANT:

FL Grande, LLC

LEGAL:

Situated in the County of Broward, State of Florida, and known as being a part of Government Lot 1, Section 14, Township 50 South, Range 42 East, and also part of Government Lot Nine, Section 13, Township 50 South, Range 42 East, and more particularly described in the application for a variance for Appeal on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

ZONING: RMH-60 (Residential High Rise/High Density District)
ADDRESS: 1881 SE 17th Street
DISTRICT: 4

APPEALING: Section 47-22.4.C.3.A (Maximum number of signs at one location and special requirements in zoning districts-Special regulations)

Requesting a variance to allow two (2) signs measuring 144 sq. ft. in area, where the Code allows a maximum of 15 sq. ft. in area for each street front sign as an accessory to hotels, motels, located on the same lot.

APPEALING: Section 47-22.3.G (General regulations – Flat signs/wall signs)

Requesting a variance to allow two (2) wall signs measuring 385 sq. ft. in area on two (2) building facades, where the Code permits a maximum of 300 sq. ft. of sign area.

Ms. Janna Lhota, attorney representing the applicant, China Grill, explained the applicant was requesting two sign variances for additional signage for the restaurant located in the Hilton Marina Hotel. Ms. Lhota said they had met with residents of the Port Condominium to address their objections. Since then, they had altered the proposal by removing the sign from the west façade and relocating a modified sign on the south façade. Ms. Lhota had contacted three out of the four residents who had sent letters, as well as the president and secretary of the condo association and the Harbordale Civic Association. She stated all of these individuals appreciated the relocation of the sign to the south façade.

Ms. Lhota displayed an aerial photo and described the area. She explained the problem that the reconstructed 17th Street Causeway bridge's increased height had caused the restaurant, effectively blocking view of the signs. Ms. Lhota showed a rendering of the proposed sign. She noted the sign would be less bright at night than the existing signage and due to its location it would be virtually invisible to Port Condominium residents.

Ms. Lhota said the application included a justification letter that addressed all the criteria to be met for the variances.

Mr. Cooper asked about the hardship, and Ms. Lhota explained this was the lack of visibility of the restaurant due to the elevation of the 17th Street Causeway bridge. She stated the bridge had formerly been 25 feet at crest and was now 50 feet at crest. The bridge itself either blocked people's view of the restaurant or made it impossible to see from the bridge span.

Ms. Lhota clarified for Mr. Willey that the 385 square foot total for the wall signs was for the two signs together: the Hilton and the China Grill. Ordinarily, the City allowed 300

square feet for a wall sign on a building. They were requesting an additional 85 square feet. For the street front signs, they were requesting an additional 258 square feet.

Mr. Willey was concerned that by positioning the two signs close together, they were in effect creating one big sign. Ms. Lhota said this request was consistent with others the Board had granted, and pointed out they were not requesting anything comparable to the Northport signage across the street.

Ms. Graham remarked on how difficult it would be to see compliant signage from the bridge span and said she did not object to the request.

Mr. Madfis said this was not objectionable and was the sort of thing that should be allowed. He said the hardship was valid as well.

Chair Centorino said she frequently walked across the 17th Street Causeway bridge and she was unaware the restaurant was there. She appreciated the fact that the applicant had tried to contact the condo owners who had sent letters.

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.

Mr. Cooper worried that this could lead to a future applicant requesting more signage using the same rationale.

Mr. Stresau felt this was a legitimate complaint that the Board had heard before. He did feel the hardship was valid. He remarked there were few properties in this situation, so he did not worry that the situation would snowball.

Ms. Graham noted the City had recently held a signage workshop that could lead to changes.

Motion made by Mr. Madfis, seconded by Ms. Graham to approve both variance requests. In a roll call vote, motion **passed** 6 - 1 with Mr. Cooper opposed.

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2. Appeal No. 10-39

APPLICANT: Notice Four LLC
LEGAL: The S. 240 ft .of the E. 229.17 ft. of the W. 707.17 ft. of Parcel "A", "VANTAGE INDUSTRIAL PARK", according to the Plat thereof as recorded in P.B. 89, P. 1, Less all that part of the external area of a area of a 25 ft. radius chord lying between

the tangents and located at the SW Cnr. of the above described property, and also less the S. 2.00 ft. thereof.

ZONING: AIP (Airport Industrial Park)
ADDRESS: 2775 W. Cypress Creek Road
DISTRICT: 1

APPEALING: Section 47-14.21.C.2.a (Dimensional requirements for GAA and AIP districts- setback/yards)

Requesting a variance to permit a 91-foot front yard setback, where Code states that no building or structure within the AIP district shall be placed closer than 100 feet when abutting NW 62nd Street right-of-way.

Mr. Bruce Celenski, architect, said they were requesting the variance to allow for a proper entrance. He said this was a secure entrance and clients were getting wet waiting to be buzzed in. They also wanted to make a more distinctive entrance to make the building more identifiable. Mr. Celenski stated they were requesting the minimum variance possible to make the building functional.

Mr. Madfis agreed the hardship was valid, and he felt accenting the entrance would enhance the district.

Ms. Graham said she drove by the house every day, and she thought this would solve the applicant's problem.

Regarding Mr. Celenski's remark that there was a hardship for clients being buzzed in and the bland exterior, he remarked that this was a classic self-created hardship. The exterior was bland because it was designed that way, and people had to stand outside to be buzzed in because someone had maximized the rental space on the interior instead of providing an indoor reception area. Mr. Dunckel asked the Board to consider these points.

Mr. Dunckel warned the Board about the way the request was written, stating, "Be very, very careful if you vote to grant it that you haven't granted a variance for 91 feet for the full length of the building as opposed to some small awning entranceway."

Mr. Willey said there was room to "cut a hole" in the corner of the building to create a reception area.

Mr. Celenski said the 1978 plans had been approved with overhangs protruding into the 100-foot setback. He wanted to come up with a solution that fixed some problems for the owner while reducing the encroachment into the hundred-foot setback.

Mr. Madfis agreed there was a reason for the setbacks, but he pointed out that in 1978 when the building was permitted, encroachments into the setback were allowed. He said more encroachment was allowed then than they were willing to grant a variance for today, but he thought they should. Mr. Madfis felt the entranceway would provide protection for clients entering the building, and this was a benefit over all of the other "architectural garbage" that was on the building currently. He noted that this was a much later owner than the one who had designed the original building, so the hardship was not necessarily self-created. Mr. Madfis said "because the building was built to the 100-foot setback in 1978 with so many encroachments that that's the way it should stay forever; I think the variance is here for that type of reason."

Ms. Graham thought the trees that were still on the property, coupled with the fact that the building was one-story, obscured the building somewhat. She said she supported the feature on the southeast corner, and pointed out that it could not be relocated around the corner. She said she supported this request.

Mr. Dunckel said they should not assume that the encroaching architectural features had been approved with the original plans; they might have been overlooked. Regarding Mr. Madfis' remark that a previous owner had created the hardship, Mr. Dunckel said the code specified that "the unique hardship is not self-created by the applicant or his predecessors in title."

Chair Centorino asked why they could not build upward. Mr. Celenski said they would need two support columns. He stated they could not move the entrance because this would reduce parking. Chair Centorino said she was not convinced. She added she had found the building easily.

Mr. Celenski explained to Ms. Graham that they proposed to remove the front triangle overhangs, apply stone to the façade and concentrate the entrance feature in the southeast corner. Ms. Graham said the only encroachment would be on the south elevation on the southeast corner.

Mr. Stresau remembered bringing the Bank Atlantic corporate headquarters to the Board that included two encroachments to create a larger landscape area against the building. He said they had received the variance because they had given up more landscape area on the east side than they were requesting in the front of the building. Mr. Stresau noted that the building was 125 feet long and the applicant was requesting a 20-foot encroachment that was only five or six feet deep. He thought the overall appearance of the building would be improved. Mr. Stresau suggested if the Board approved the variance, it should include the caveat that the applicant must provide the landscaping that was required by the current landscape ordinance. Mr. Celenski said he would love to add more landscaping.

Mr. Madfis felt this request was in keeping with the intent of the code. He said this was not an aesthetic issue, it was a matter of feeling welcomed into the building and safer when entering. Mr. Madfis stated there was a dysfunction that was being corrected by this.

Mr. Cooper felt this was a self-imposed hardship and there were other options to achieve the desired result. Mr. Celenski said they had struggled to find an alternative, but there was a very small foyer and cutting into the building would be “really tough.”

Mr. Willey said a variance was “something that I look for us to give when there is no way to get what something needs without the variance.”

Mr. Jordan felt the building needed to be upgraded. He thought that more square footage would be removed from the setback by removing the six existing overhangs than would be added by the requested addition.

Mr. Alphonso Wong, Mr. Celenski’s assistant, said they would remove planters, further reducing the square footage of the encroachment.

Motion made by Mr. Madfis, seconded by Ms. Graham to approve, with the restriction that the encroachment shall not exceed 20 feet 2 inches in width, the encroachment was 9 feet into the 100-foot setback, and the landscaping would be brought up to code. In a roll call vote, motion **failed** 4 - 3 with Mr. Willey, Mr. Cooper and Chair Centorino opposed.

Communication to the City Commission

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None.

Report and for the Good of the City

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Mr. Madfis recalled the Board’s approval of a variance for a wind turbine at their previous meeting. Mr. Madfis had heard that the presenter was not currently a student at Tufts University as he represented and there were other issues.

Chair Centorino said she had not trusted the applicant, but did not know how to verify these things. Mr. Willey wanted to know if Tufts University was really involved. Mr. Madfis had been unable to verify this.

Mr. Dunckel said the Board could vote for reconsideration now because the Order had not yet been executed.

Motion made by Mr. Madfis, seconded by Mr. Cooper, to reconsider, with the item to be reheard in January upon notice to the applicant.

Mr. Stresau wondered if new information would be introduced at a re-hearing. Mr. Madfis said, "We know they avoided the public agendas, but we don't know for a fact whether or not they were representatives of Tufts University." Mr. Stresau said either staff or Mr. Dunckel should be responsible to confront the applicant to find out if the presenters were who said they were and if they represented Tufts. Based on that information, the Board could hold another public hearing.

Mr. Dunckel asked, "Does the Board really want to be in the business of granting relief when presented with ...false or fraudulent information?" He stated part of every case was judging the credibility of the testimony and evidence being given.

Chair Centorino said if they were unsure of who the presenters were, it made sense to have them come back. It was the Board's responsibility to decide if testimony was credible. For example, "If they say they're going to be checking on the turbine things every month and they're saying that they're a student at Tufts and that they're supporting some program – none of which I believed – then, as the members of the public spoke, what's going to happen when the hurricane comes along? Who's really going to be checking on that turbine? It was preposterous to me."

Mr. Willey suggested the Board move to withhold the signing of the variance order until the Mr. Dunckel checked the credentials of the people who had presented the application. Mr. Dunckel stated he was not the judge of the credibility of the testimony, the Board was. Mr. Willey then suggested the City should investigate whether the presenters had the authority to speak with the identification that had been given. Mr. Dunckel said he could not place someone under oath, but the Board could.

Mr. Dunckel said the Board could deny the variance that had been granted, based on misrepresentation, and require the applicant to apply again.

Ms. Graham remarked that since Mr. Patterson claimed to be from Tufts University, but not to having a professional license, there was little the Board could go after him for. She noted the applicant did present engineering to install the turbine on the roof. Ms. Graham was willing to support the reconsideration "just provided that how he implied or expressed his credentials was in fact that relevant to the thing being approved."

Mr. Jordan asked if the question was whether or not Mr. Patterson was a Tufts engineering student. Mr. Madfis said Mr. Patterson had presented the project as something he was doing as an extension of his education at Tufts. Mr. Madfis had been given information that Mr. Patterson was an employee of the person on whose roof the turbine would be installed and the project was not a project for the university. He

admitted this might not change anyone's mind, but he said three of his neighbors had informed him that they had checked it out themselves.

Mr. Jordan asked if they could just have Mr. Patterson submit his resume and sign something. Mr. Madfis said he might be satisfied by a letter from a professor stating this was a project and Mr. Patterson was assigned the project.

Mr. Dunckel thought it very important for the Board to pursue the inquiry to send a signal that it was concerned about the purity of the proceedings in front of it.

Mr. Stresau was not sure Mr. Patterson represented this as a Tufts University project, and he did not know if that fact, or the fact that Mr. Patterson was a student at Tufts, would make a lot difference. Mr. Madfis said he had not felt that Mr. Patterson had a convincing argument on his own "and the fact that he fell back on the fact that he was just a student and this was a student project to me was where I gave him a tremendous amount of leeway, and to hear that credential being questioned is really part of the problem that bothered me..."

In a roll call vote, motion **passed** 6 - 1 with Mr. Jordan opposed.

There being no further business to come before the Board, the meeting was adjourned at 8:05 p.m.

Chair:

Diana Centorino

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 Inc.