

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, FEBRUARY 9, 2011 – 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	7	2
Michael Madfis, Vice Chair	P	8	1
Caldwell Cooper	P	9	0
Gerald Jordan	P	8	1
Karl Shallenberger	P	7	2
Henry Sniezek	P	8	1
Birch Willey	P	9	0
Alternates			
Mary Graham	A	7	2
Fred Stresau	P	8	1
Sharon A. Zamojski	P	5	1

Staff

Bob Dunckel, Assistant City Attorney
Terry Burgess, Zoning Administrator
Yvonne Blackman, secretary
Cheryl Felder, Service Clerk
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.

Index

	<u>Appeal</u>		<u>District</u>	<u>Page</u>
	<u>Number</u>	<u>Applicant</u>		
1.	10-40	City of Fort Lauderdale	4	2
2.	11-02	Hadas and Jonathan McCue	2	3
3.	11-03	Louis James	3	5
4.	11-04	Al Jackson	3	9
		For the Good of the City		10

Call to Order

Chair Centorino called the meeting to order at 6:30 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 – January 2011

Motion made by Mr. Jordan, seconded by Mr. Cooper, to approve the minutes of the Board's January 2011 meeting. 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.

[Index](#)

Rehearing:

1. Appeal No. 10-40

APPLICANT: City of Fort Lauderdale
LEGAL: STRANAHANS SUB LOTS 13 TO 18, BLK 14 FT
LAUDERDALE 3-10 D LOTS 6 THRU 17, LESS RD R/WS AS
DESC IN OR 8156/401 BLK B

ZONING: RAC-CC (Regional Activity Center- City Center District)
ADDRESS: 100 SE 1 Street
DISTRICT: 4

APPEALING: Section 5-27(b) (Distances of establishments from Church or School)
Requesting a special exception to allow alcohol sales that is incidental to the sale of food in a restaurant that is within 249 feet from a Church (First United Methodist), where Code requires a separation of 500 feet.

Chair Centorino said a letter had been received from Jack Koussevitzky indicating he could not attend the meeting this evening due to a family medical emergency and requesting the case be deferred to next month.

Mr. Willey recalled that the previous month, the Board had voted to defer the case to this month's hearing so proper notice could be mailed out.

Motion made by Mr. Jordan, seconded by Mr. Madfis, to defer the case to the March meeting. In a voice vote, motion passed 7 - 0.

[Index](#)

2. Appeal No. 11-02

APPLICANT: Hadas & Jonathan McCue
LEGAL: "Holiday Heights," Lot 10, Block 2, P.B. 27, P. 11
ZONING: RM-15 (Residential Multifamily Low Rise/Medium Density District)
ADDRESS: 1213 NE 13th Street
DISTRICT: 2

APPEALING: Section 47-3-2.B.1 (Nonconforming structure)
Requesting a variance to allow garage to be converted to a bedroom and a covered porch to be enclosed to extend the living room, where Code states that a nonconforming structure may not be enlarged or altered in a way that increases its nonconformity, but a nonconforming structure may be altered to decrease its nonconformity.

APPEALING: Section 47- 5.34 (Table of dimensional requirements for the RM-15 districts)
Requesting a variance to allow a 15.5-foot front yard setback, where Code requires a minimum of 25-foot front yard.

Mr. Jose Ramos, architect, explained that the house was 15.5 feet from the property line and an existing carport had been enclosed for a bedroom without a permit. Mr. Ramos noted that the code stated an alteration could not be made that would increase non-conformity. This was not the case, since the building's distance from the property

line had not decreased. Mr. Ramos stated four other properties on the street had enclosed part of the house without increasing the building's shell.

Mr. Ramos asked the Board to approve the variance. He said this was a hardship because of the non-conformity of the building.

Mr. Uri Ostrofsky, the owner's uncle, said his niece and her husband were living in Virginia and renting the house until they returned. He stated they had purchased the house as is. Mr. Ostrofsky agreed with Mr. Ramos that other houses on the block had received permits to perform the same type of alteration.

Mr. Cooper asked if the carport, without the enclosure, had been permitted. Mr. Ramos said there was no way to check; there were no plans for the house on file, he only had a survey.

Mr. Dunckel explained this used to be a 2-lane road and was now a 5-lane road. As a result of the City's taking property, lot sizes had been reduced. He asked if the permits had been issued before or after 13th Street was widened. Mr. Ramos said he had permits from 1993 and 1995, after the widening. Mr. Madfis was certain there was a permit history in the records. Mr. Ramos said he had not requested a permit history. Mr. Madfis believed the property had become non-conforming after the road widening, but was not sure this was a hardship. He also feared that this would create a precedent.

Mr. Ramos reiterated that the house originally had a carport and the property had become non-conforming after the road widening. Mr. Madfis said the change of use from a carport to a bedroom "begins to make that increase of non-conformity just that much more dramatic." Mr. Ramos noted that the non-conformity related to the setback to the property line, not the use. Mr. Burgess said the code was the same for everything.

Mr. Ramos clarified for Mr. Willey that they needed an after-the-fact permit for the changes that had been made.

Mr. Ostrofsky said his niece and her husband had purchased the house 12-13 years ago.

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 said his major concern was that they had no evidence that the carport was legal to start with. Mr. Sniezek agreed he needed more information regarding the

carport.

Mr. Madfis wondered why they had not pulled their own permit record but had pulled records for the adjacent properties. He felt the history should be available to let them know that the building had been properly permitted until now.

Mr. Dunckel said if the carport had not been legally built, the applicant would have requested a variance for that. If the owner later wanted to enclose the carport, the Board could state that a variance had been granted for a carport, not for living space.

Mr. Shallenberger said he would not approve this request for a “carport which may or may not be conforming, conform to something else that may or may not be conforming.” He thought a variance for the carport would probably have been granted, but if the variance were sought to enclose it after the street was widened, he was unsure the Board would approve it.

Mr. Willey said there was considerable room on the lot to add bedroom space elsewhere rather than “to take the chance that we’re okay on something that was never permitted...on 13th after it was widened.”

Mr. Dunckel felt they should continue the case until they could verify whether or not the carport was originally permitted.

Mr. Ostrofsky said the inspector had agreed that the carport had been built with the house. Mr. Ostrofsky said the porch and carport were one unit, so the porch was original as well.

Motion made by Mr. Copper, seconded by Mr. Willey, to continue the case to the Board’s March meeting. In a voice vote, motion passed 7 - 0.

Later in the evening, Mr. Ostrofsky wanted to re-open the case because the architect had discovered plans from 1951 for the house. Mr. Dunckel said the Board could review the plans now or might want to have them distributed to all members.

Mr. Madfis advised the applicant to compile all of his evidence; the one sheet he had located might not be convincing enough. Mr. Ostrofsky agreed to return.

3. Appeal No. 11-03

APPLICANT: Louis James
LEGAL: **Lots 1-4, less the Right-of-Way for Sistrunk Blvd. together with Lots 47-50, Block 4 of Lincoln Park corrected Plat, according to the Plat thereof, as recorded in Plat Book 5, Page 2.**
ZONING: **RC-15 (Residential Single Family/Cluster Dwellings/Low Medium Density District) & CB (Community Business District)**
ADDRESS: **1447 NW 6th Street**
DISTRICT: **3**

APPEALING: Section 47-20.11.A (Geometric standards)
Requesting a variance to permit a 23-foot drive aisle width on the East of the Building, where Code requires a minimum of 24-foot drive aisle width.

Mr. Don Arpin, engineer, requested that his case be heard last because they were awaiting the arrival of a representative. The Board agreed to hear item #4 out of order.

Upon returning to the case, Mr. Arpin said they had been denied a landscape variance before they located the parking for the project. He pointed out that they had since increased the buffers to five feet and the entrance and exit islands to eight feet. Mr. Arpin requested a 1-foot variance for a drive lane so they could continue the project.

Mr. Arpin noted that if the Board approved this, they would still need to acquire three off-site parking spaces. The owner of the property across the street and Mr. Battle from the CRA had agreed to give them two spaces across the street. Mr. Arpin stated the property across the street had been vacant for 13 years and must meet DRC rules as well. Mr. Arpin reminded the Board that the property had been zoned for restaurant only and the current tenant must upgrade the property for a convenience store and lose the take-out portion of his license. They were trying to get the property zoned for a convenience store.

Mr. Burgess clarified that the CRA would not give parking to this property, there would be building parking on the street, and the way the code was written, all parking adjacent to this property in the CRA could be counted toward their parking.

Mr. Madfis confirmed that they were trying to change the use, not the zoning, to convenience store. Mr. Arpin explained that two residential lots would be incorporated into the project and they must get the variance prior to applying for rezoning. Mr. Madfis was concerned that Mr. Arpin would need to return in six months for reinstatement of the variance because he did not know how long the rezoning would take.

Mr. Burgess confirmed the rezoning would be from residential to commercial. He felt this would take four to six months.

Mr. Cooper asked if anyone had spoken with Commissioner DuBose regarding this. Mr. John Hill, owner of the property across the street, said he had left messages for Commissioner DuBose but he had not returned his calls. This concerned Mr. Cooper because Commissioner DuBose and the CRA had spent a lot of time on the revitalization of this street. Mr. Hill said Commissioner DuBose had not negated the idea, and had not indicated he did not approve.

Mr. Tarek Bahlawan, tenant, said he had met with Commissioners DuBose last year with several other people and he had given his blessing to go ahead with the project. Mr. Bahlawan said things were going smoothly now and Mr. Battle had granted them the parking spaces.

Mr. Cooper said after they had previously appeared before the Board and stated they had Commissioner DuBose's blessing, he had spoken with Commissioner DuBose and he had indicated he had not blessed this project. They also had no proof that Mr. Battle had granted them the parking spaces.

Mr. Bahlawan said he had called Commissioner DuBose 200 times trying to meet with him and he had not returned his calls.

Mr. Burgess said the City Commission would vote on the rezoning of the property in the rear, so Commissioner DuBose would see the project.

Chair Centorino opened the public hearing.

Ms. LaRhonda Ware, President of the Dorsey Riverbend Civic Association, clarified that this was supposed to be just a restaurant, grandfathered in. She said Mr. Bahlawan had made promises he did not keep, such as the store hours and that he would comply with the Sistrunk development, which he did not do. Ms. Ware said the civic association did not support this project. She stated they were waiting to find out what it would be. Ms. Ware said the impact on the community would be "outrageous" and "doing business with this man is unbearable to our community." She said Mr. Bahlawan had played one civic association against another to get them arguing and had lied while collecting signatures. Ms. Ware said she would like to see Mr. Battle here because she did not trust Mr. Bahlawan.

Mr. Madfis thought Ms. Ware's concerns should be presented to the Planning and Zoning Board when they decided whether or not to allow rezoning of the property, not the Board of Adjustment tonight. Mr. Madfis was unsure that the request being made of

the Board this evening would have an impact on traffic in the neighborhood. He said the Board should not focus on the reasons Ms. Ware had stated.

Mr. Jordan agreed with Mr. Madfis, and said this was not the proper Board to hear Ms. Ware's concerns. Ms. Ware said she understood, she just wanted this on the record.

Mr. Walter Hinton, President of the Durrs Homeowners Association, said they wanted this to move forward. He said he had spoken with Mr. Bahlawan and he had assured the property owner that he would not lose his property and that the "right thing would be put on the property." Mr. Shallenberger asked if Mr. Hinton favored the variance sought this evening; Mr. Hinton said he did, as President of the Durrs Homeowners Association.

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.

Chair Centorino asked what the hardship was. Mr. Arpin said the hardship was that the tenant could not operate as a convenience store until they got the necessary parking. Mr. Arpin said if the variance were not granted, they would lose four parking spaces.

Mr. Willey asked how many feet were available from the east side of the store to 14th Avenue. Mr. Arpin said there was 46 feet to the property line. Mr. Willey said if they would be able to satisfy parking needs on the property, he would agree to the variance, but the way the property was used, and the fact that they must get other pieces of property for their intended use, he felt it was not a good vote. Mr. Willey said there were too many questions about how the building would be used.

Mr. Arpin said it was very clear that they wanted to make this a convenience store and they needed to increase the parking. Mr. Cooper asked if they should have a letter from the property owner in order to proceed. Mr. Dunckel said he was comfortable with the application that had been signed by the owner.

Chair Centorino said she agreed with Mr. Willey.

Mr. Dunckel asked if Chair Centorino and Mr. Willey would like to continue the case until other reliefs had been granted. Chair Centorino said she would feel more comfortable if other reliefs had already been granted. She stated, "I feel if I were to vote for it, I would be assisting the applicant in going smoothly through a system, and I don't think I really want to assist them in that because I don't like the way that the components...sound like they line up."

Mr. Burgess explained staff had determined they should come before this Board because they would be rezoning two parcels of residential land. If this were denied, this

would still be residential property. If it were rezoned first, it would be CB property and it could be torn down and expanded into something that would encroach further into the neighborhood.

Mr. Shallenberger did not want the applicant to be subject to a merry-go-round between boards.

Mr. Arpin suggested the Board continue this until they heard what Commissioner DuBose thought.

Mr. Madfis remarked that the project's suitability for the community would be decided at the Planning and Zoning Board, and he felt this was probably the first step "in this particular merry-go-round ride." Mr. Madfis thought the real question was whether this was an appropriate project for this site, which was not up to the Board of Adjustment.

Mr. Willey suggested a continuance, and Mr. Sniezek recommended 120 days. Mr. Cooper was concerned because they could not be certain how long the other approvals would take. Mr. Dunckel felt the 120-day continuance would provide incentive for the applicant to move this along.

Mr. Shallenberger asked Mr. Burgess if 120 days would be sufficient. Mr. Burgess said it could take longer to go through Planning and Zoning and two City Commission meetings. Mr. Wiley said he would not object to granting a further extension if the applicant needed it. Mr. Jordan suggested 180 days.

Motion made by Mr. Madfis, seconded by Mr. Jordan to defer this for up to 180 days and if the applicant needed an additional extension, the Board should hear this request a couple of months in advance. In a roll call vote, motion passed 7 - 0.

[Index](#)

4. Appeal No. 11-04

APPLICANT: Al Jackson
LEGAL: "Dorsey Park 4th Addition," Lot 7, Block 24, P.B. 25, P. 26
ZONING: RS- 8 (Residential Single Family/Low Medium Density District)
ADDRESS: 1800 NW 3rd Court
DISTRICT: 3

APPEALING: Section 47-5-31 (Table of dimensional requirements for the RS-8 district)

Requesting a variance to permit a 18.95-foot front yard setback to convert a carport into a garage, where Code requires a minimum of 25 foot front yard.

[Heard out of order]

Mr. John Scott Connor, architect, explained the property had been damaged in a fire and the Board had already approved landscape issues they needed to resolve in order to conform with code. They now had construction documents to build an addition on the rear and to enclose the original carport. He stated the carport had been built under B-1 zoning in 1959 with the original house. Mr. Connor said in the B-1 zoning, the front setback was much less than today in RS-8, which required a 25-foot setback. He noted there were other structures and walls on the property that were within the 25 feet, making this non-conforming. Mr. Connor explained that the issue had arisen after the stucco had been applied and the building inspected.

Mr. Cooper asked Mr. Burgess to confirm what Mr. Connor had said about the permit being issued and the problem being discovered later. Mr. Burgess said since October, the Building Department was separate from Zoning and “some things are slipping though the cracks.”

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. Madfis said it appeared from an aerial photograph that quite a few nearby buildings were even closer to the property line.

Mr. Dunckel advised the Board to make a motion to approve the variance, limiting it to the site plan they were being shown.

Motion made by Mr. Cooper, seconded by Mr. Jordan, to approve, with the condition that it was limited to the site plan the Board was shown. In a roll call vote, motion passed 7 - 0.

Communication to the City Commission

[Index](#)

None.

Report and for the Good of the City

[Index](#)

Mr. Willey announced the City was entering its centennial year, and the “100 Years” down near the beach looked great. He said there would be a big birthday party on the weekend of March 27 along with other festivities. He stated the City had done a great job. Mr. Madfis said the following day a kick-off event would occur on Sistrunk.

Chair Centorino said the increase in recycling bins throughout the City was great.

There being no further business to come before the Board, the meeting was adjourned at 8:26 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.