

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, MARCH 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	A	7	3
Michael Madfis, Vice Chair	P	9	1
Caldwell Cooper	P	10	0
Gerald Jordan	P	9	1
Karl Shallenberger	A	7	3
Henry Sniezek	P	9	1
Birch Willey	P	10	0
Alternates			
Mary Graham	P	8	2
Fred Stresau	P	9	1
Sharon A. Zamojski	P	6	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.

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	<u>Appeal Number</u>	<u>Applicant</u>	<u>District</u>	<u>Page</u>
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Call to Order

Mr. Madfis called the meeting to order at 6:30 p.m. He introduced Board members and described the functions of the Board and procedures that would be followed for the meeting.

Approval of Minutes – February 2011

Motion made by Mr. Jordan, seconded by Mr. Stresau, to approve the minutes of the Board's February 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.

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Rehearing:

1. Appeal No. 10-40 (Deferred from February 9, 2011)

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.

Ms. Rhonda Koussevitsky, owner of Slice Pizza, stated she had resent the letters of notice and met with the church pastor as the Board had requested.

Ms. Koussevitsky explained to Mr. Dunckel that there two establishments across the street that sold beer and wine in the daytime, as Slice did.

Mr. Madfis opened the public hearing.

Mr. Vic Dumonceau, President of the Board of Trustees of First United Methodist Church, said the church had concerns that allowing this would “open a can of worms” and set a precedent. Mr. Dunckel said this was specific to this case, and Mr. Dumonceau said the church withdrew its objection.

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

Motion made by Mr. Sniezek, seconded by Ms. Zamojski, to grant the re-hearing. In a roll call vote, motion passed 5 – 2 with Mr. Cooper and Ms. Zamojski opposed.

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2. Appeal No. 11-02 (Deferred from February 9, 2011)

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. Uri Ostrofsky reminded the Board that the previous month, they had raised questions regarding old permits issued for the property. Mr. Ostrofsky presented a copy from microfiche showing that the carport and porch existed when the house was built in 1951; the footprint was the same.

Mr. Madfis pointed out that with the alterations, there had been a change of activity in a portion of the building. He asked if this made it more non-conforming. Mr. Burgess said the City considered it more non-conforming because they wanted it to eventually go away and be redeveloped. Mr. Dunckel noted that in 1951, the carport would not have been considered in violation of the setback even if it was closer than 25 feet to the property line. Mr. Burgess agreed, and explained that the carports were considered freestanding structures.

Mr. Burgess confirmed for Mr. Stresau that single-family residences must provide two parking spaces. He noted there was room to put two parking spaces in the side yard of this property. Mr. Burgess said parking would be required at the time of permit and the architect was aware of this.

Mr. Jordan remarked that this property had "its legs cut out from it" and its value diminished when 13th Street had been widened. He did not object to the request. Mr. Dunckel pointed out that compensation had been paid to property owners when the street was widened.

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

Motion made by Mr. Stresau, seconded by Mr. Jordan, to approve the variance request regarding **Section 47-3-2.B.1**. In a roll call vote, motion passed 7 - 0.

Motion made by Mr. Stresau, seconded by Mr. Jordan, to approve the variance request regarding **Section 47- 5.34**. In a roll call vote, motion passed 7 - 0.

3. Appeal No. 11-05

APPLICANT: Kent Chamberlain
LEGAL: "Revised Lauderdale Harbors Unit 1", Lot 15, Block 4, P. B. 27,
P. 42
ZONING: RS- 8 (Residential Single Family/Low Medium Density District)
ADDRESS: 1369 SE 14th Street
DISTRICT: 4

APPEALING: Section 47-19.2.Y. (Accessory building and structures, general-
Porch)

Requesting a variance to permit an existing porch with a 13 foot, 8 inch front yard setback, where Code requires a 17 foot front yard setback when a porch is attached to a standard single family home.

Mr. Juan Garcia, architect, said he had tried other configurations, but all of them would have created other issues. Mr. Kent Chamberlain, applicant, referred to before and after photographs, and pointed out that he had only squared off a cut-away on the porch. He said the contractor had [erroneously] informed him that this conformed with the setbacks. Mr. Chamberlain said 26 people had signed a petition supporting his request and he had another 15 emails and letters in support. He stated his property had also won the Community Appearance Award this year, due in part to the porch. Mr. Chamberlain requested to be allowed to retain the porch as it was.

Mr. Madfis opened the public hearing.

Mr. Michael Dodds, neighbor, said the porch extension had transformed the streetscape into "one of the nicest little streetscapes you're going to find anywhere in Fort Lauderdale." He felt removal would reduce the value of his own property and asked the Board to grant the variance.

Mr. Charles K. Bortell, neighbor, said approximately 80% of traffic entering the neighborhood went by Mr. Chamberlain's lot. He believed everyone's property value was enhanced by Mr. Chamberlain's improvements and said he was in favor of the request. Mr. Madfis remarked that there was a Code in place and it should be respected regardless of whether one felt there was an aesthetic or economic improvement.

Mr. Matthew Grant, neighbor, said this did not damage any neighboring properties and Mr. Chamberlain's changes had improved the neighborhood's quality of life significantly.

Mr. Chamberlain agreed that rules were rules, but felt this was such a small infraction he hoped the Board would “see past the violation...”

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

Mr. Stresau pointed out that the corner of the house also encroached, and wondered if they should also consider a variance for the house. Mr. Madfis felt this was a similar condition to the previous case. Mr. Burgess confirmed that Mr. Madfis was looking at the corner yard. The front yard was on 13th and the rear yard was directly behind it; if the front yard were on 14th, the rear yard would be in violation.

Mr. Cooper felt the real hardship was the corner lot and the homeowner would not have a problem on a standard lot.

Mr. Madfis agreed that the home was beautiful, but he pointed out that the porch was in the corner of the home and it might have been more architecturally interesting to adjust the corner in some interesting pattern that might not change the use of all of the space occupied by the porch. He did not believe this was the only appropriate solution and that they should consider the encroachment.

Mr. Sniezek said he was always concerned about setting a precedent that could be abused in the future but he felt this request was in the de minimus.

Motion made by Mt. Sniezek, seconded by Mr. Cooper, to approve. In a roll call vote, motion passed 7 - 0.

Mr. Willey wanted the record to show that the Board had understood that the documentation was not perfect regarding the corner of Mr. Chamberlain’s house that also encroached into the setback, but the Board had addressed this.

Mr. Burgess explained that the corner of the house did not encroach because “you measure the width of the lot...” Mr. Dunckel said the portion of the house that was in question was construed by Zoning to be corner yard, not front yard.

Communication to the City Commission

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None.

Report and for the Good of the City

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Mr. Stresau was troubled by Mr. Chamberlain's application because it showed what one could do if allowed to encroach. He wondered what the Board's opinion would have been if Mr. Chamberlain had requested the variance prior to building the porch. He said he would not have approved it, and Mr. Willey agreed. Mr. Madfis felt there was another solution that would have been just as dramatic and utilitarian without encroaching.

There being no further business to come before the Board, the meeting was adjourned at 7:16 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.