

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, OCTOBER 12, 2011 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

Board Members	Attendance	Cumulative Attendance 6/2011 through 5/2012	
		Present	Absent
Diana Waterous Centorino, Chair	P	3	1
Michael Madfis, Vice Chair	A	3	1
Caldwell Cooper	P	4	0
Karl Shallenberger	P	4	0
Henry Sniezek	P	4	0
Fred Stresau	P	3	1
Birch Willey	P	4	0
Alternates			
Jacquelyn Scott	P	4	0
Sharon A. Zamojski	P	3	1

Staff

Bob Dunckel, Assistant City Attorney
Terry Burgess, Zoning Administrator
Yvonne Blackman, Secretary
Anthony Fajardo, Acting Zoning Administrator
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>
1.	11-22	Bal Harbour Square, LLC	2	2
2.	11-23	Second Avenue Properties Communication to the City Commission For the Good of the City	4	3 10 10

Call to Order

Chair Centorino called the meeting to order at 6:35 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 – September 2011

Mr. Stresau noted corrections to the minutes.

Motion made by Mr. Cooper, seconded by Mr. Stresau, to approve the minutes of the Board's September 2011 meeting as amended. In a voice vote, motion passed unanimously.

Board members disclosed communications they had and site visits made 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. 11-22**
APPLICANT: **Bal Harbour Square, LLC**
LEGAL: A portion of Parcel A, F.V.S. Plat No. 2, P.B. 123, P. 9
ZONING: B-1 (Boulevard Business)
STREET: 1800 N. Federal Highway
ADDRESS: Fort Lauderdale, FL
DISTRICT: 2

APPEALING: Section 47-22.4.A.1 (Maximum number of signs at one location and special requirements in zoning districts)

Requesting a variance for 5 signs, (one freestanding and 4 wall signs), where the Code permits three (3) signs, no more than one (1) being a freestanding sign.

APPEALING: Section 47-22.3.E (General regulations- Detached freestanding signs and pylon signs)

Requesting a variance to allow a freestanding sign to be setback 5 feet, where the Code states that any detached signs abutting streets along the Interdistrict Corridor as specified in Section 47-23.9 shall be located a minimum of twenty (20) feet from the property line of the lot or plot on which the sign is located, except for ground signs which shall have a five (5) foot setback and shall not be located in the sight triangle.

Mr. Stresau stated he had a conflict and Ms. Zamojski took his place on the dais.

Ms. Hope Calhoun, attorney for the applicant, requested a deferral for the second request. Mr. Burgess explained the applicant needed to apply for a variance to a different code section. This would not affect the Board's vote regarding the first request. Ms. Scott wished to consider both requests simultaneously.

Motion made by Ms. Scott, seconded by Mr. Cooper, to defer both items to consider them together at the Board's next meeting. In a roll call vote, motion passed 7-0.

Mr. Stresau returned to the dais.

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2.	<u>APPEAL NO. 11-23</u>
APPLICANT:	<u>Second Avenue Properties</u>
LEGAL:	Lauderdale 2-9D, Lot 1S65, 2S65 less W5 Blk 126, Lot 21 E ½, Lots 22, 23, 24 all less RD R/W Blk 126
ZONING:	B-1 (Boulevard Business) / RM-15 (Residential Multifamily Low Rise/Medium Density District)
STREET:	311 SW 24th Street
ADDRESS:	Fort Lauderdale, FL
DISTRICT:	4

1. APPEALING: Section 47-23.9.B.2.b (Interdistrict corridor requirements – first floor transparency)

Requesting a variance to allow a reduction of the total transparency requirement for the South side of the building facing SR84 from 35% to +/-20% in total where the Code states that a minimum of thirty-five percent (35%) of the first floor facade of a building facing State Road 84 shall utilize transparent elements such as windows, door and other fenestration.

2. Section 47-25.3.A.3.d.iv (Neighborhood compatibility requirements – wall requirements)

Requesting a variance to eliminate the requirements for a wall on the South edge of the alley, where the Code states that a wall shall be required on the nonresidential property, a minimum of five (5) feet in height.

3. APPEALING: Section 47-25.3.A.3.d.i (Neighborhood compatibility requirements – Landscape strip requirements)

Requesting a variance to reduce the landscape buffer to 9.8 feet on the North side, where the Code states that a ten (10) foot landscape strip shall be required to be located along all property lines which are adjacent to residential property. Such landscape strip shall include trees, shrubs and ground cover as provided in the landscape provisions of Section 47-21, Landscape and Tree Preservation Requirements. The width of the landscape area shall extend to the property line. All required landscaping shall be protected from vehicular encroachment. When walls are required on non-residential property abutting an alley, required shrubbery shall be installed and located within the landscape area on the exterior of the wall.

4. APPEALING: Section 47-25.3.A.3.d.ii (Neighborhood compatibility requirements – parking restrictions)

Requesting a variance to permit parking located within 10.5 feet of the residential property line, where the code states that no parking shall be located within twelve (12) feet of the property line, within the yard area required by the district in which the proposed nonresidential use is located, when such yard is contiguous to residential property.

5. APPEALING: Section 47-20.5.C.2 (General design of parking facilities)

Requesting a variance to allow the alley to be used as internal circulation, where the Code states that internal circulation within the parking area must be maintained on site and shall not be blocked by parking spaces.

6. APPEALING: Section 47-20.5.C.6 (General design of parking facilities – minimum stacking distance)

Requesting a variance to allow the alley (public right-of-way) to be used as inbound stacking, where the Code states adequate stacking distance shall be required for both inbound and outbound vehicles to facilitate the safe and efficient movement between the public right-of-way and the development. An inbound stacking area shall be of sufficient size to insure that vehicles will not obstruct the adjacent roadway, the sidewalk and the circulation within the facility. An outbound stacking area shall be required to eliminate backup and delay of vehicles within the development. The minimum number of stacking paces shall be provided on site inclusive of the vehicle being served as applicable, except as provided for outbound vehicles.

7. APPEALING: Section 47-20.15.3 (Backout parking)

Requesting a variance to allow back-out parking, where the Code states that backout parking may not be located on or require vehicular movement over bufferyards, as required by Neighborhood Compatibility Requirements, Sec. 47-25.3. The design of backout parking shall conform with this Section 47-20, and all backout parking spaces shall be provided entirely on-site. Backout parking spaces for residential uses and

hotels shall have one (1) peninsular landscape area for every two (2) spaces. For all other uses there shall be one (1) peninsular landscape area for every four (4) spaces.

Mr. Steve Baum, owner of the business, Boat Owner's Warehouse, said they had purchased the adjacent lot some time ago with the idea to expand the business in the future, unaware that zoning requirements had changed since the first building was constructed. Mr. Baum stated they were requesting reduction of glass for the face of the building because the new addition would meet the requirements but the old building had no glass. They requested a variance for the wall along the alley because they were using this area for parking; if a wall were built, this would create unusable space. Mr. Baum said they also needed a reduction of some setback requirements to accommodate parking. They also wanted to use the alley for internal circulation, inbound stacking and back-out parking because they had lost their State Road 84 entrance and exit due to frontage requirement of the special building code.

Mr. Stresau said his communication with staff and Mr. Dunckel indicated some requests were more important and they should probably be heard first. He noted that if rezoning was requested, a site plan must be presented to the Planning and Zoning Board (P&Z) and he was unsure which Board should be approached by the applicant first. Mr. Stresau was opposed to granting variances on the north lot without the P&Z hearing the rezoning request first.

Mr. Dunckel said rezoning was a larger application than a variance. The problem in this case was that XP rezoning required site plan approval. One option would be to make variances contingent upon the rezoning, but the P&Z might interpret this as an endorsement of the north parcel rezoning.

Ms. Scott was not comfortable considering the variances before the applicant went for the rezoning. Mr. Burgess said staff must sign off regarding minimum standards to make recommendations to the P&Z. Without the variances, the property did not meet these standards.

Mr. Baum said he was willing to continue with the variance requests, subject to the approval of the rezoning.

Mr. Burgess said the engineering staff had advised the applicant he could go to the Property and Right of Way Committee (PROW), but the applicant had also considered that getting a variance to use the alley for circulation would be easier. Mr. Stresau said use of the alley was the key to the appeals, and he felt PROW should hear this first.

Mr. Sniezek said he preferred the larger issues be addressed first.

Mr. Dunckel explained that usually, if an alley vacation was allowed, a cul-de-sac or T-turnaround was required, and this would change the site plan, unless the entire alley was vacated.

Mr. Shallenberger felt the Board was being put in an untenable situation by staff. Mr. Burgess said the applicant needed the variances before staff signed off and the applicant went to the P&Z.

Ms. Scott wondered what the hardship was and Mr. Baum said their hardship was that they would lose their entrance from State Road 84 due to the special code that applied to this area.

Mr. Stresau recommended the Board consider the following requests in order: 1, 5, 7 and 6, and then consider 2, 3 and 4, which concerned the parking lot.

Mr. Dunckel stated the Board could defer to allow the applicant to seek rezoning at the P&Z.

Mr. Jeff Eisensmith, attorney for the applicant, pointed out that the P&Z might require the applicant to go back to the Board of Adjustment (BOA). Mr. Dunckel agreed they could not know whether this would happen, but if the applicant received the blessings of the P&Z, he would have more momentum with the BOA.

Mr. Eisensmith said the residential neighbors had been noticed, per the requirements and Mr. Burgess confirmed this.

Mr. Dunckel wondered why the applicant would need the variance for Section 47-20.5.C.2 if he obtained vacation of the alley. Mr. Stresau said they would not, but he did not want to add another layer of bureaucracy by requiring the applicant to go to the PROW. Mr. Burgess explained that the applicant would be in violation of Section 47-20.15.3 if part of the alley went to residential property because they would not have the 24 feet needed. Mr. Stresau said the applicant could create the 24 feet by changing the site plan.

Mr. Cooper asked about the hardships required for the variances. Chair Centorino said they should address this as it related to each item.

1. APPEALING: Section 47-23.9.B.2.b (Interdistrict corridor requirements – first floor transparency)

Chair Centorino asked the applicant's hardship related to this request. Mr. Baum said the original building had been constructed to the old code and had no windows. Mr. Stresau asked what use in the existing building prevented adding windows. Mr. Baum stated there was shelving on the south wall that had to remain.

Mr. Fajardo said the reason for the transparency requirement was to encourage pedestrian traffic on the street front. Mr. Stresau said he could not “in my wildest dreams” imagine that the City would encourage pedestrian traffic on State Road 84. Mr. Burgess said there were certain provisions that would exempt a property, but none applied in this case. Mr. Baum pointed out that the new code did not take into account new additions on older constructions. Mr. Burgess said the applicant was working on more than 50% of the existing property, so the entire construction must comply with the newer code.

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. Willey said the Board could suggest that the south side of old building be treated to “function or look like, when you drive past, that there are windows in the building.”

Mr. Burgess stated the new addition could have sufficient windows to satisfy the requirements for both buildings.

Motion made by Mr. Stresau, seconded by Mr. Shallenberger, to approve the request regarding Section 47-23.9.B.2.b (Interdistrict corridor requirements – first floor transparency).

Mr. Willey wanted to specify that the variance applied to what had been presented to the Board in the plans and Mr. Stresau and Mr. Shallenberger agreed to add this amendment to the motion.

In a roll call vote, motion passed 7-0.

5. APPEALING: Section 47-20.5.C.2 (General design of parking facilities)

Mr. John Obarowsky, architect, stated it had been strongly suggested by the City’s traffic engineer that the alley be used as the entrance and the other access be used for the exit.

Mr. Willey noted that the new design showed fewer parking spaces by the alley and he was concerned that visitors would need to use the gravel alley. Mr. Obarowsky said they were permitted by code to back out onto the alley. Mr. Stresau noted that the code to which Mr. Obarowsky referred assumed that the alley was paved, not gravel. Mr. Stresau was concerned that any action the Board took would require the alley to be improved to provide dust-free circulation. He suggested that the spaces be used by employees only. Mr. Stresau favored any improvement that eliminated driveways that accessed State Road 84.

Mr. Burgess said the applicant had gone through the DRC process to develop this site plan and this was the best they could come up with for this lot size. He said the City Engineer wanted the entire alley to be one-way going west. Mr. Dunckel said they Board could make this variance subject to the alley being one-way starting at the northeast corner of the building.

Mr. Cooper said this was a self-imposed hardship, "and now we're going to be using public land to get this project built." He stated he opposed the parking plan.

Chair Centorino opened the public hearing.

Mr. Michael Kaduce said he owned the property that shared the alley with this property. He stated he was not in favor of making the alley one-way because this would limit his access to the property and increase traffic, forcing it out through Freddie's parking lot and onto residential 23 Street.

Mr. Burgess informed Mr. Stresau that the City could not require the applicant to pave the alley beyond his property line.

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 was concerned that the appeal did not mention the alley being one-way. Mr. Burgess said this was what the engineer wanted and it would be required before he signed off on the plan.

Motion made by Mr. Stresau, seconded by Mr. Sniezek, to approve the request regarding Section 47-20.5.C.2 (General design of parking facilities).

Mr. Sniezek stated this was a self-created hardship. Mr. Baum said the code required them to build along State Road 84, increasing the frontage and forcing them give up their entrance from State Road 84. Mr. Burgess said there was no other option for an entrance from State Road 84 based on the lot size and location.

Mr. Stresau amended his motion to include that approval of this request required that the alley be one-way from the northeast corner of the building to the west. Mr. Sniezek accepted this amendment. Mr. Stresau wanted to ensure that no one left a regular parking space and went west into the residential neighborhood.

Mr. Dunckel clarified that traffic from the northeast corner of the building eastward to Third Avenue would be two-way. It would be "two-way from Third, one-way westbound from thereafter" and this would require a turnaround or cul-de-sac for which he doubted there would be enough room in this site plan. He stated the City's traffic engineer had hoped to avoid this by making the alley one-way westbound.

Mr. Kaduce said he did not favor limiting his access to the alley from either direction. Mr. Stresau stated he expected vehicles would enter from the west and exit to the east onto Third Avenue. He said there should not be two-way traffic on the alley because it was not wide enough.

Mr. Sniezek withdrew his second to Mr. Stresau's motion. Mr. Stresau changed his motion to approve the application as presented and Mr. Shallenberger seconded.

Mr. Cooper felt this project did not work.

In a roll call vote, motion **failed** 0-7.

7. APPEALING: Section 47-20.15.3 (Backout parking)

Mr. Dunckel advised Mr. Baum that if he were denied this variance he would have to wait two years to reapply. Mr. Eisensmith reminded the Board that this plan had been developed with input from City staff. Mr. Eisensmith said if the alley were vacated, this would be internal circulation. Mr. Dunckel stated buffer yard requirements would come into effect where the three diagonal spaces were located.

Mr. Stresau said this was why the Board should stop considering the request. If the Board denied the appeal, the issue would go away. Mr. Burgess did not think the applicant would vacate the alley beyond his property on the north side. He would have a buffer yard issue west of that. Mr. Burgess stated this was part of appeal #2.

Mr. Shallenberger advised the applicant to redesign the parking. Mr. Obarowski stated the code allowed backout parking onto a public alley. Mr. Shallenberger felt this was not going to work. He believed there was support on the Board for what Mr. Baum wanted to do, but he would not get support for this parking plan. He suggested this be withdrawn.

Mr. Willey recommended tabling the item for 120 days to give the applicant time to explore another solution. Chair Centorino favored improving the property and agreed with Mr. Willey's recommendation. Mr. Stresau asked if the applicant would be required to provide a buffer yard on the parcel on the south side of the alley if the north parcel were rezoned XP. Mr. Burgess confirmed that the buffer would be required behind the building, not on the alley side. Mr. Stresau thought the Board should hear this item, so the applicant would know whether or not parking would be allowed behind the building.

Ms. Scott supported tabling the item.

Mr. Stresau noted that the applicant would not be able to get the property rezoned and return to the Board within 120 days, so any motion should not have a time limit. Chair

Centorino informed Mr. Eisensmith that the applicant could request additional time if needed.

Mr. Cooper said he would love to see the project happen, but he could not approve it as designed.

Motion made by Mr. Willey, seconded by Mr. Stresau, to table the request regarding Section 47-20.15.3 for no more than six months, or to be brought back to the Board by the applicant. In a roll call vote, motion passed 7-0.

Mr. Stresau stated if the applicant intended to rethink the site plan, he would favor a variance regarding the buffer yard requirement behind the existing building; this would make parking spaces available in a revised site plan. Mr. Cooper was concerned about future uses of the property having the variance.

Motion made by Mr. Sniezek, seconded by Mr. Shallenberger, to reconsider the Board's previous vote regarding Section 47-20.5.C.2 (General design of parking facilities). In a roll call vote, motion passed 7-0.

Motion made by Mr. Sniezek, seconded by Mr. Cooper, to table the request regarding Section 47-20.5.C.2 (General design of parking facilities) for no more than six months, or to be brought back to the Board by the applicant. In a roll call vote, motion passed 7-0.

Motion made by Mr. Stresau, seconded by Mr. Cooper, to table the remaining items for no more than six months, or to be brought to the Board by the applicant. In a roll call vote, motion passed 7-0.

Communication to the City Commission

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None.

Report and for the Good of the City

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None.

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There being no further business to come before the Board, the meeting was adjourned at 8:45 p.m.

Chair:

Diana Centorino

Attest:

ProtoType Inc.

Minutes prepared by: J. Opperlee, Prototyped Inc.