

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, DECEMBER 14, 2011 – 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 6/2011 through 5/2012</b>	
		<b>Present</b>	<b>Absent</b>
Diana Waterous Centorino, Chair	P	5	1
Michael Madfis, Vice Chair	A	4	2
Caldwell Cooper	P	6	0
Karl Shallenberger	P	6	0
Henry Sniezek	P	5	1
Fred Stresau	P	5	1
Birch Willey [arrived 7:26]	P	6	0
<b>Alternates</b>			
Roger Bond	P	2	0
Sharon A. Zamojski	P	5	1

**Staff**

Bob Dunckel, Assistant City Attorney  
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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**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 – November 2011**

**Motion** made by Mr. Stresau, seconded by Mr. Cooper, to approve the minutes of the Board's November 2011 meeting. 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** (*Deferred from November 9, 2011*)

**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 47-22.3.P. (General regulations- *Shopping center or strip store signs*)**

Requesting a variance to allow one (1) additional flat wall sign (making a total of 3 signs on the building), where the Code states that each store, office or place of business shall be permitted no more than one (1) flat sign (excluding freestanding detached signs and eight-inch lettering on awning signs), except when a store, office or place of business

faces two (2) street fronts or vehicle travelways, then one (1) flat sign facing on each street front shall be permitted.

Mr. Stresau stated he had a conflict and left the dais. Mr. Dunckel explained that five of the six remaining members must vote in favor to approve the request. If the applicant wished, the item could be deferred.

Ms. Hope Calhoun, attorney for the tenant, Chase Bank, suggested they wait until later in the meeting when perhaps more Board members would be present. The Board agreed to this suggestion.

At 7:26, Mr. Willey arrived.

Upon returning to the case, Mr. Willey was present and Mr. Stresau stepped down due to his conflict; there were still 7 voting members.

Ms. Calhoun said they had heeded the Board's input at the previous meeting. They had modified the application to request just one more sign for the north side of the building. Ms. Calhoun displayed a photo and stated when driving south on Federal Highway, it could be difficult to identify the bank building.

Ms. Calhoun informed Mr. Bond that the addition of this sign would not exceed the total signage allowed.

Chair Centorino noted that the application used the word "understated" for the signage, and said she thought it was already obvious that this was a Chase Bank and the existing signs seem unusually large. Ms. Calhoun said Federal Highway was a high-speed thoroughfare, and pointed out in a photo that the existing sign was obstructed by trees and the Pier 1 building. Ms. Zamojski pointed out that the photo was taken from the northbound side of Federal Highway, not from the vantage point of a southbound driver.

Chair Centorino opened the public hearing.

Cindy Temple, Chase employee, showed another photo depicting a lack of visibility from the north. Chair Centorino pointed out that the sign could be seen through the trees in the photo.

Ms. Temple stated they usually put 30" letters on their signs but these were only 24".

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.

Ms. Zamojski said she drove by the property at all times of day and never noted a visibility issue. She did not feel another sign was needed.

Mr. Cooper said granting this variance would eliminate the need for two other building signs and a "horrendous monument sign out on the swale."

Mr. Willey was glad the monument sign request had been withdrawn. He thought Chase was concerned that traffic speed would make it difficult to notice the existing signage. He also felt the sign would improve the appearance of the bank.

Mr. Sniezek felt there was an obstruction issue driving south and said he would support the request.

Chair Centorino was concerned about "the way we're heading here" and noted that Board members who opposed this request were "simply supporting the code we have." She feared the "deterioration and visual blight of Federal highway, the proliferation of signs, and the potential escalation in the size and number of signs."

**Motion** made by Mr. Cooper, seconded by Mr. Willey to approve. In a roll call vote, motion **failed** 4-3 with Ms. Zamojski, Mr. Bond and Chair Centorino opposed.

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## 2. APPEAL NO. 11-26

**APPLICANT:** Reef Development, Inc.  
**LEGAL:** "Beach Way Heights," Unit B, P.B. 25, P. 27, Lot 73 Less S 10 feet  
**ZONING:** RS-4.4 (Residential Single Family/Low Density District)  
**STREET:** 1200 Seminole Drive  
**ADDRESS:** Fort Lauderdale, FL  
**DISTRICT:** 1

**APPEALING:** Section 47-5.30 (Residential Single Family/Low Density District)  
Requesting a variance to allow the height of the structure along the side yard to extend to 25 feet where code states where a building exceeds 22 feet in height that portion of the building shall be set back an additional 1 foot per foot of building height above 22 feet.

Mr. Stresau returned to the dais.

Neil Schiller, attorney for the applicant, gave a Power Point presentation, a copy of which is included with these minutes for the public record. Mr. Schiller said in the 1940s, this property had been intended for an access road to a private island that had never materialized. The site had never been developed. He showed photos of the property and noted the size. Mr. Schiller said this was adjacent to an RMM-25 high density zoning district.

Mr. Schiller pointed out the small portion of the building that required them to seek a variance; it was less than one foot of ceiling space.

Mr. Schiller referred to the criteria for a variance:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property;

Mr. Schiller said the lot was narrower than the typical lot because it had been intended for an access road. He said the property had originally been 10 feet wider to the south but that had been taken off at some point.

Mr. Schiller said they had needed to design the house taller to meet the current Florida Building Code for wind tolerance and storm surge.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district;

Mr. Schiller stated having the additional 10 feet to the south would have avoided the need for a variance; the property was adjacent to a more intense zoning district and the narrowness of the lot required special attention to the Florida Building Code to make the structure safe.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property;

Mr. Schiller said the owner wished the home to be compatible with the neighborhood and to conform with the code. He said the ceiling heights were “extraordinarily minimum” at 12 feet and 9 feet.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations;

Mr. Schiller stated the hardship had been created by a developer in the past and the lot was not meant to have a house built on it.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Mr. Schiller said they were only requesting an additional three feet. He said they chose

not to encroach into the side setbacks in deference to the neighbors.

Mr. Schiller said the property owner to the north did not object to the request.

Mr. Sniezek questioned whether the house could have been designed smaller to meet the Building Code requirements. Mr. Schiller said they had designed the house to meet the Building Code and to “maintain what we think would be a compatible house in the neighborhood, maintaining ceiling heights of 12 and 9 feet respectively.”

Chair Centorino pointed out that the house to the north was one-story, and said this design could be a one-story house with no need for a variance. Mr. Schiller said the owner of the house to the north wanted to demolish the one-story and build a two-story.

Mr. Cooper did not see the hardship, and noted that without the third story, there would be no need for a variance.

Mr. Dunckel said the City Commission had recently granted a dock waiver for this property. In his research for the dock waiver, Mr. Dunckel had found that “one of the principals in Reef Development is also a principal in the owners of the bottom lands who at one point had plans on developing this.”

Chair Centorino pointed out that on an empty lot, they could design a home that complied with the codes.

Jerry Gavcovich, architect, said the third level did not encroach into the setback and did not require a variance. He agreed a smaller home could be built, but said the owner wanted to build a home that suited the needs of his family. Mr. Gavcovich said new home builders wanted taller ceiling heights. He stated without the variance, the ceilings would be lower, which would make the home unmarketable.

Chair Centorino opened the public hearing portion of the meeting. 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. Stresau confirmed with Mr. Gavcovich that he had met with the City and been informed about the setback requirement prior to designing the home but the owner had requested a taller design anyway. Mr. Stresau said the setback requirement was intended to allow open space between structures for sunlight and wind. It was assumed that people would design homes to fit.

Mr. Sniezek said the adjacent lot to the north was the same width, and that owner would not object to this request because he might request a variance in the future to build his own two-story house. Mr. Schiller thought the adjacent lot was wider.

Mr. Stresau thought the plan also showed pool equipment located in the side yard setback, which was not allowed. He advised Mr. Gavcovich to consider this.

**Motion** made by Mr. Stresau, seconded by Mr. Cooper, to approve as presented. In a roll call vote, motion **failed** 0-7.

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### 3. Appeal No. 11-27

**APPLICANT:** Thomas Tharrington  
**LEGAL:** "Stilwell Isles", P.B. 15, P. 26, Block 2, Lot 2 Less N. 10.58 feet  
**ZONING:** RS-4.4 (Residential Single Family/Low Density District)  
**ADDRESS:** 308 Royal Plaza Drive  
**DISTRICT:** 2

**APPEALING:** Section 47-5.30 (Residential Single Family/Low Density District)  
Requesting a variance to allow the height of the structure along the (North) side yard to extend 27 feet 3 inches where code states where a building exceeds 22 feet in height that portion of the building shall be set back an additional 1 foot per foot of building height above 22 foot.

**APPEALING:** Section 47-3.2.B.1 (Nonconforming structure)  
Requesting a variance to enlarge a non-conforming structure, where code the Code states that a nonconforming structure may not be enlarged or altered in a way which increases its nonconformity, but a nonconforming structure may be altered to decrease its nonconformity.

Mr. Stresau stated he had a conflict and left the dais. Mr. Dunkel explained that five of the six remaining members must vote in favor to approve the request. If the applicant wished, the item could be deferred.

The item was deferred.

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### 4. Appeal No. 11-28

**APPLICANT:** Angelo Miele, Jr.  
**LEGAL:** "Progresso", P.B. 2, P. 18, Block 279, Lots 20, 21 & 22, less the E 15 ft. of said Lots  
**ZONING:** I (General Industrial)  
**ADDRESS:** 705 NW 7th Avenue  
**DISTRICT:** 3

**APPEALING:** Section 47-18.4.C (Automotive repair shop)  
Requesting a variance to allow a minimum lot width of 75 feet for Automotive Repair, where the Code states that lots shall have a minimum lot size of one hundred (100) feet in width on front property line, and one hundred (100) feet in depth.

Mr. Stresau returned to the dais.

Curtis Sherrod said the request was consistent and compatible with the existing neighborhood. He said there were many commercial sites and automotive repairs shops in the area.

Mr. Sherrod confirmed that the parking lot to the north was their property and they had sufficient parking. He added that they would not perform any structural changes to the building.

Mr. Sniezek asked staff why automotive repair required 100 feet, but staff did not know the rationale.

Chair Centorino opened the public hearing portion of the meeting. 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. Stresau, seconded by Ms. Zamojski, to approve. 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.

There being no further business to come before the Board, the meeting was adjourned at 7:50 p.m.

Chair:

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Diana Centorino

Attest:

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ProtoType Inc.

Minutes prepared by: J. Opperlee, Prototype Inc.