

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, MAY 14, 2014 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

Board Members	Attendance	Cumulative Attendance 6/2013 through 5/2014	
		Present	Absent
Diana Waterous Centorino, Chair	P	6	3
Michael Madfis, Vice Chair	P	8	1
Roger Bond	P	9	0
Caldwell Cooper	P	8	1
Karl Shallenberger	P	7	2
Fred Stresau	P	7	2
Sharon A. Zamojski	P	7	2
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Alternates			
Matthew Scott	A	2	1
Birch Willey	P	7	2

Staff

Bob Dunckel, Assistant City Attorney
 Anthony Fajardo, Zoning Administrator
 Lynda Crase, Administrative Aide
 Jamie Opperee, Recording Secretary, Prototype Inc.

Communication to the City Commission

Motion made by Mr. Shallenberger, seconded by Mr. Madfis, to request that Board members and alternates be notified when the City Attorney will present her findings to the City Commission regarding whether other municipalities' staff make recommendations to their Boards of Adjustment so Board members can attend that meeting. The Board requests that this meeting take place prior to the City Commission's July recess. Motion passed 7-0.

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</u>		<u>District</u>	<u>Page</u>
	<u>Number</u>	<u>Applicant/Agent</u>		
1.	B14003	Keith Lewis and Jeannie Lim	4	<u>2</u>
2.	B14008	Mustafa Selcuk Cevic/ Daniel Acevedo – All Construction Systems For the Good of the City Communication to the City Commission	1	<u>3</u> <u>5</u> <u>5</u>

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.

Items were discussed out of order.

Call to Order

Chair Centorino called the meeting to order at 6:30 p.m. She introduced Board members and determined a quorum was present.

Approval of Minutes – April 2014

Motion made by Mr. Cooper, seconded by Ms. Zamojski, to approve the minutes of the Board's April 2014 meeting. In a voice vote, motion passed unanimously.

1. APPEAL NO. B14003

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APPLICANT: Keith Lewis & Jeannie Lim
LEGAL: LAUDERDALE ISLES NO 2 35-33 B LOT 30 LESS PT DESC AS,
 COMM AT NW COR LOT 30, SW ALG WYL/L 53.08 TO POB, CONT
 SW ALG W/L 193.70 TO PT ON SEAWALL, NELY ALG SAME 37.40,
 NELY 126.15, NLY 39.97 TO POB BLK 5
ZONING: RS6.85A (Residential District)
STREET: 2678 Gulfstream Lane
ADDRESS: Fort Lauderdale, FL
DISTRICT: 4
STAFF RECOMMENDATION:
 Staff recommends approval of the request
CONDITIONS OF APPROVAL:
 None

Section 47-39.A.6.F(1) (Dimensional Requirements – East Side Yard)

Requesting a variance to allow an enclosed front porch to be constructed with a side yard of five (5) feet seven (7) inches from the property line where the code states that the minimum side yard for structures located in the RS-6.85A zoning district shall be a minimum of 7-feet 6-inches resulting in a decrease of one (1) foot ten (10) inches and as indicated on the survey provided as part of the application submittal.

Appealing: Section 47-39.A.6.F(1) (Dimensional Requirements – West Side Yard)
Requesting a variance to allow an existing structure to remain with a side yard maximum encroachment of seven (7) feet two (2) inches and a minimum encroachment of seven (7) feet three (3) inches from the property line where the code states that the minimum side yard for structures located in the RS-6.85A zoning district shall be a minimum of 7-feet 6-inches resulting in a maximum decrease of four (4) inches and as indicated on the survey provided as part of the application submittal.

(DEFERRED FROM APRIL 9)

Keith Lewis, applicant, said when they applied for the original variance, they had been unaware they needed a variance on the west side of the property as well as the east side. He had received a new survey showing the correct distances.

Mr. Madfis pointed out that the language in the request made it seem that the encroachment was 7' 2" but the encroachment was only 4". Mr. Dunckel agreed. Mr. Fajardo advised the Board to refer to the measurements cited on the survey.

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. Dunckel advised the Board that the Final Order should amend the notice to read, "Requesting a variance to allow an existing structure to remain with a side yard maximum encroachment as reflected on the survey attached hereto as exhibit A."

Motion made by Mr. Madfis, seconded by Mr. Cooper to approve the request, concurrent with the dimensions noted on the survey with the 4/22/14 revision date, and Mr. Dunckel would make amendments to the description of the request as necessary in the Final Order. In a voice vote, motion passed unanimously.

2. APPEAL NO B14008

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APPLICANT: Mustafa Selcuk Cevic
Agent: Daniel Acevedo – All Construction Systems
LEGAL: BERMUDA-RIVIERA SUB OF GALT OCEAN MILE 38-46 B LOT 33 34
BLK A
ZONING: RS-8 (Residential Single Family Low Medium Density District)

STREET

ADDRESS: 3356 NE 42nd Court, Fort Lauderdale, FL

DISTRICT: 1

STAFF RECOMMENDATION: Staff recommends denial of the request

Conditions of Approval: N/A

Appealing: Section 47-19.5 Table 1 (Fences, walls and hedges)

Requesting an after the fact variance to permit a fence to be located on the property line abutting the right-of-way where the code states that a fence or wall exceeding two (2) feet six (6) inches in height must be setback a minimum of three (3) feet from the property line abutting the right-of-way.

The applicant's agent, his contractor, was not present. Mr. Dunckel confirmed that the Board could still consider the request. The Board discussed Good of the City items anticipating the arrival of the applicant.

Upon returning to the request, Mr. Cooper pointed out that the owner's contractor was acting as agent for this request and had not shown up for the hearing. If the Board heard this request and it was not approved, the homeowner could not reapply for two years. Mr. Stresau added that the notice had been posted inside the fence, making it very difficult to read. He suggested they defer the request to their next meeting and advise the owner to re-post the notice.

Mr. Stresau noted that all of columns along the front of the property encroached several inches into the right of way and he could recall only one instance when the Board had approved a variance for something that had been constructed in the right of way. Staff had also written the request to indicate that a fence or wall over 2'6" tall must be set back a minimum of 3' from the property line of the abutting right of way. This was not true; the code indicated such fence or wall must be situated a minimum of *an average of* 3' from the property line of the abutting right of way. Mr. Stresau said there were also six large planters built in the right of way without a permit.

The Board discussed their options and pointed that the notice needed to be re-posted. Mr. Shallenberger said the application was not complete, and he would reject it on that point. Ms. Zamojski agreed, and said it had been a waste of the Board's time to review the application. Mr. Dunckel suggested the Board continue the case, that the notice be properly posted and that the application be complete.

Chair Centorino closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Madfis, seconded by Mr. Bond, to continue the hearing to the Board's next meeting, for the notice to be properly posted and the application to be complete. Motion passed 7-0.

Report and for the Good of the City

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The Board viewed a video excerpt of a City Commission conference meeting when their Communication to the City Commission regarding staff recommendations had been discussed.

At the meeting, the City Manager had indicated he had initiated the staff recommendations because he felt one of staff's roles was to provide professional recommendations. The City Attorney had agreed to research whether other municipalities had staff provide recommendations to their Boards of Adjustment and report back to the Commission.

Mr. Stresau said the City Manager had initiated the staff recommendations in November 2013. The Board's December 2013, January and February 2014 meetings had been cancelled and the Board had taken issue with this practice in March. Mr. Stresau was appalled that the City Attorney would make a recommendation based on other cities' practices.

Mr. Madfis said attorneys on the Commissioner understood the legal implications if cases were brought to District Court and agreed staff should provide input but not a recommendation. He did not feel the City should look at what other cities did in this regard.

Mr. Shallenberger said the public perception of a staff recommendation could be that a decision had already been made. He felt this would prejudice the public and deter them from attending meetings to provide input. Mr. Shallenberger added that he did not know which specific staff member made the recommendation and there was the potential for higher level managers to influence the recommendations.

Mr. Shallenberger wanted to be made aware of the meeting at which the City Attorney would present her findings to the City Commission so he could attend. Mr. Stresau advised Board members to speak to their own Commissioners as well. He pointed out that the reason applicants applied to the Board was because they disagreed with zoning code requirements and he wondered how staff could recommend the Board approve an appeal to the code.

Communication to the City Commission

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[Discussed earlier]

Motion made by Mr. Shallenberger, seconded by Mr. Madfis, to request that Board members and alternates be notified when the City Attorney will present her findings to the City Commission regarding whether other municipalities' staff make recommendations to their Boards of Adjustment so Board members can attend that meeting. The Board requests that this meeting take place prior to the City Commission's July recess. Motion passed 7-0.

There being no further business to come before the Board, the meeting was adjourned at 7:25 pm.

Chair:



Diana Centorino MICHAEL MADFIS
 ← FOR

Attest:


ProtoType Inc.

Minutes prepared by: J. Opperlee, Prototype Inc.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.