



CITY OF FORT LAUDERDALE

BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
DECEMBER 12, 2018 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA

Board Members	Attendance	Cumulative Attendance 6/2018 through 5/2019	
		Present	Absent
Douglas Reynolds, Chair	P	5	0
Howard Nelson, Vice Chair	P	4	1
Eugenia Ellis	A	4	1
Blaise McGinley	A	4	1
Patrick McTigue	P	4	1
S. Carey Villeneuve	P	5	0
Alternates			
Chip Falkanger	A	3	1
Chadwick Maxey	P	3	2

Staff

Lynn Solomon, Assistant City Attorney
Mohammed Malik, Zoning Administrator
Burt Ford, Interim Zoning Chief
Karlanne Grant, Planner
Nadia Martin, Administrative Assistant
Brigitte Chiappetta, 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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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.

Call to Order

The meeting was called to order at 6:30 p.m. Roll was called and a quorum determined to be present.

Approval of Minutes – November 2018

Motion made by Ms. Nelson, seconded by Mr. McTigue to approve the Board's November 2018 minutes. In a voice vote, motion passed unanimously.

Chair Reynolds warned applicants that four out of five Board members must vote in the affirmative for a request to be granted.

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CASE:	B18022	
OWNER:	SOUTH MACK 1 LLC	
AGENT:	Andrew J. Schein, Esq./Lochrie and Chakas, P.A.	
ADDRESS:	820 NW 10 Terrace	
LEGAL DESCRIPTION:	PROGRESSO 2-18 D LOT 35 TO 38 BLK 270	
ZONING:	B-3	
COMMISSION DISTRICT:	3	

APPEALING: Appealing the Zoning Administrators Interpretation of;
Section 47-18.4.C - Automotive repair shop.
The Department has made the determination that the above
code section is referring to a single shop, not multiple
shops, on a single development site that is one hundred
(100) feet in width per the code
Section 47-18.4.C
All other lots shall have a minimum lot size of one hundred
(100) feet in width on the front property line, and one
hundred (100) feet in depth.

Andrew Schein, attorney for the applicant, said this appeal would affect more cases than this one. This related to the owner of a warehouse containing bays who rented them to individual operators. Those operators had been denied business tax licenses because of this interpretation.

Mr. Schein stated the code requirement at issue related to automotive repair shops:
Section 47-18.4.C

“All other lots shall have a minimum lot size of one hundred (100) feet in width on the front property line, and one hundred (100) feet in depth.”

Mr. Schein stated this property had 274'4" in width. The City had interpreted the code to mean that each *individual operator* must comply with the minimum lot size. He stated bays 1 through 9 were automotive repair shop uses and were located on a lot that had a minimum 100 feet in width.

Mr. Schein displayed photos of 845 North Federal Highway, in the RAC UV zoning district, with a 5,000 square-foot lot size. There were at least five businesses on this property, and the entire property was only 6,100 square feet. The City had indicated that this example was not relevant. But also that, “the ordinance in these cases is not applied to each business owner.” Mr. Schein disagreed with the first statement and agreed with the second. Mr. Schein pointed out that the ordinance applied to each *use*, not each individual business owner.

Mr. Schein explained that the change of use from a warehouse to auto repair bays had happened in the 1970s and City's ULDR had not been adopted until 1997. He said the City had stated in meetings with him that on this property, there could be two business tax licenses or one umbrella-like business tax license but the bays could not be leased to individual companies. He pointed out that salons could lease out seats for individually licensed operators who had their own business tax licenses but did not need to meet all of the dimensional requirements of the ULDR.

Ms. Solomon informed the Board that for the appeal to be granted, they would need to find that the staff interpretation was clearly erroneous.

Mr. Nelson recalled the reason the City had put the regulation on size was due to the proliferation of auto repair shops on Dixie Highway that resulted in cars being parked protruding into the street. He felt there was nothing ambiguous about the code section at all.

Mr. Maxey asked if there were any limitations on storefront sizes and widths for auto repair shops. Mr. Schein stated signs were limited by the lot size, not the number of businesses on the property.

Mr. Malik explained that this code section was for the "promotion of health, safety, morale, comfort, prosperity and general welfare of the community." Section 47-1.2 gave interpretation powers to the Zoning Administrator. He agreed with Mr. Nelson's memory about the proliferation of auto repair shops before this code section was part of the ULDR. Mr. Malik said it was the department's interpretation that an auto repair shop (singular) was subject to the minimum dimensional requirement and criteria.

Mr. Malik confirmed for Mr. Nelson that if one person owned this warehouse, he could operate all nine bays as a repair shop under one business license. Mr. Nelson was struggling to see the difference between one business license and nine business licenses for the same use, intensity and group of users. Mr. Malik said this same interpretation had been used since 1997 and never been appealed, to his knowledge.

Mr. Malik informed the Board that he did not know when the warehouse was converted to auto repair bays. Mr. Nelson was concerned about the effect this would have on other interpretations and suggested that City staff should talk to the appellant about abating this appeal for one month to allow Mr. Malik time to grandfather this so the Board did not have to make an interpretation on the appeal.

Provided no one violated any parking requirements on the property, Mr. Villeneuve wondered what the detrimental effect would be to allowing nine tax IDs for this building rather than one. He said this was about the use, not the number of people. Mr. Malik said appealing this could affect signage. He added that this restriction was only for this use.

Mr. Schein pointed out that this was not a non-conforming use the City had stated; auto repair was allowed in the B-3 zoning district.

Mr. Schein said his client had received an interpretation from a land use attorney but the attorney had not sought an interpretation from the City. Mr. Schein explained that the sign ordinance apportioned signs per street frontage, not per business. He agreed that if the code were changed to allow one sign per business license, it would have a detrimental effect to this and many other properties.

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

Mr. Nelson wanted to allow the applicant to request tabling in order to work on a solution with the City.

The Board took a brief break.

Upon returning, Mr. Schein stated he had an agreement with the City. Ms. Solomon said they needed something in writing. The City agreed to issue business tax licenses, one per bay, and those licenses would be grandfathered in if the property were sold, provided they did not lose their non-conforming status. Mr. Schein stated staff had already spoken to Anthony Fajardo, Director of the Department of sustainable Development, about this.

Motion made by Mr. Nelson, seconded by Mr. McTigue to table the item to the Board's February meeting. In a roll call vote, motion passed 5-0.

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CASE:	B18023
OWNER:	Self-Directed IRA Services Inc., Julieta Horner
AGENT:	Juliet A. Horner
ADDRESS:	1041 NE 9 Ave
LEGAL DESCRIPTION:	PROGRESSO 2-18 D LOT 4,5 BLK 178
ZONING:	RMM-25
COMMISSION DISTRICT:	2
APPEALING:	Section 47-5.36 – Table of Dimensional Requirements Requesting a variance to allow an “After the Fact” enclosed carport, converted into habitable living space/storage, to be located twenty (20) feet from the east front property line where the code requires a minimum of twenty-five (25) feet, a reduction of five (5) feet.

Julieta Horner, owner, requested a deferral to January.

Motion made by Mr. Nelson, seconded by Mr. McTigue to table the item to the Board's January meeting. In a roll call vote, motion passed 5-0.

Communication to the City Commission

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None

Report and for the Good of the City

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None

Other Items and Board Discussion

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Ms. Grant provided an update on Section 5-26: Distance between establishments. She reported the City was moving forward with amending the text to allow any business to apply for a special exception to be within 300 feet.

There being no further business to come before the Board, the meeting adjourned at 8:08 pm.

Chair:



Douglas Reynolds, Chair

Attest:



Brigitte Chiappetta
ProtoType Inc.

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