



CITY OF FORT LAUDERDALE

BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
DECEMBER 11, 2019 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA

Board Members	Attendance	Cumulative Attendance 6/2019 through 5/2020	
		Present	Absent
Douglas Reynolds, Chair	P	6	0
Howard Nelson, Vice Chair	A	5	1
Eugenia Ellis	P	5	1
Blaise McGinley	P	6	0
Patrick McTigue	P	5	1
S. Carey Villeneuve	P	3	3
Chadwick Maxey	P	4	2
Alternates			
Chip Falkanger	P	5	1
Shelley Eichner	P	3	3
Tim Bascombe	P	3	3

Staff

D Wayne Spence, Assistant City Attorney
Mohammed Malik, Zoning Administrator
Burt Ford, Zoning Chief
Chakila Crawford-Williams, Administrative Assistant
Brigitte 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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I. Call to Order

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

II. Approval of Minutes – November 2019

Motion made by Mr. Villeneuve, seconded by Mr. McTigue to approve the Board's November 2019 minutes. In a voice vote, motion passed unanimously.

III. Public Sign-In / Swearing-In

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

During each item, Board members disclosed communications they had and site visits made.

IV. Agenda Items

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CASE: PLN-BOA-19110003
OWNER: REVIS, DONALD RAY JR & SUZANNE
AGENT: ANDREW J. SCHEIN, ESQ./ LOCHRIE & CHAKAS, P.A.
ADDRESS: 20 BAY COLONY PT, FORT LAUDERDALE, FL., 33308
LEGAL DESCRIPTION: BAY COLONY SECTION OF THE LANDINGS 62-34 B LOT 29

ZONING DISTRICT: RS-4.4
COMMISSION DISTRICT: 1
REQUESTING: **Section 47-19.3(h) No watercraft shall be docked or anchored adjacent to residential property in such a position that causes it to extend beyond the side setback lines required for principal buildings on such property, as extended into the waterway, or is of such length that when docked or anchored adjacent to such property, the watercraft extends beyond such side setback lines as extended into the waterway.**

1. Requesting a variance to install a boatlift and vessel at the rear of the property at a zero (0'0") side yard setback whereas the code requires a minimum side yard setback of ten feet (10'0") from the extended property line

Andrew Schein, attorney, stated the property was unique: the side setback was 25 feet because it was adjacent to the waterway and the property jutted out into the water. If a boat were docked at 25 feet from the side yard setback, it would be in the middle of the inlet. He described and showed an animation of boats negotiating the turn.

Regarding the variance criteria:

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

Mr. Schein said owners had the right to install a dock and keep a boat at waterfront property. The unique shape of the lot was another special condition.

- 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. Schein said they had been unable to find another property with the same circumstance.

- 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. Schein said this related to the right to a dock and boat on a waterfront property.

- 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. Schein said the hardship was due to how the property was platted.

- 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. Schein stated this was the minimum to allow the owner to have the dock and boat without the risk of another boat striking it.

Mr. Schein reported they had spoken to the neighbors and the HOA architectural committee, which must approve, and all supported the request.

Mr. Schein said the neighbor opposed locating the dock on the south property line. He said the variance applied only to the setback; the owner already had the right to install the boatlift.

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.

Motion made by Mr. McGinley, seconded by Ms. Ellis:

To find that the request meets the criteria and to approve the variance. In a roll call vote, motion passed 7-0.

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CASE:	PLN-BOA-19110006
OWNER:	STEPHANIE J. TOOTHAKER
AGENT:	N/A
ADDRESS:	901 PONCE DE LEON DRIVE, FORT LAUDERDALE, FL., 33316
LEGAL DESCRIPTION:	RIO VISTA ISLES UNIT 3 7-47 B LOT 1,2 BLK 23
ZONING DISTRICT:	RS-8
COMMISSION DISTRICT:	4
REQUESTING:	Section 47-5.31.- Table of dimensional requirements for the RS-8 district. (Note A)

1. Requesting a variance from the 25 feet minimum rear north yard requirements of Sec. 47-5.31 Table of Dimensional Requirements for the RS-8 zoning district to permit the existing residence to remain at 23'-2" from the rear north yard property line;
2. Requesting a variance from the 25 feet minimum rear north yard requirements of Sec. 47-5.31 Table of Dimensional Requirements for the RS-8 zoning district to allow the construction of a new open roof structure and breeze block wall with bar and kitchen equipment 12'-4" from the rear north yard property line; Side (East) Setback
3. Requesting a variance from the 5 feet minimum side east yard requirements of Sec. 47-5.31, Table of Dimensional Requirements for the RS-8 zoning district to allow the construction of a new pool house 1'-3" (including an overhang of 6") from the east side yard property line; Front (South) Setback
4. Requesting a variance from the 25 feet minimum front south yard requirements of Sec.47-5.31, Table of Dimensional Requirements for the RS-8 zoning district to permit the existing residence to remain at 19'-5" from the front south yard property line; and Corner (West) Setback
5. Requesting a variance from the 24'-8½" corner west yard requirements (25% of the lot width) of Sec. 47-5.31, Table of Dimensional Requirements for the RS-8 zoning district to permit the existing residence to remain at 9.4 feet from the corner yard west property line.

Mr. Malik explained that the owner had applied for variances for #2 and #3. The house had existing non-conformities and Mr. Malik suggested she request variances to resolve those issues as well.

Stephanie Toothaker, owner, said a sewer main had recently broken in front of her home. She displayed photos of the house. Some time after the house was built, the City had taken some of the property to construct the 9th Avenue bridge some time later and the owner had turned the house around. Ms. Toothaker displayed the site plan and said the interior was not square. She explained that requests 1, 4 and 5 were for preexisting conditions and requests 2 and 3 were for improvements she wished to make

in the pool area. She displayed photos that described the conditions for which she was requesting the variances.

Regarding the variance criteria:

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

Ms. Toothaker said the house had been reoriented to accommodate the bridge and this had put the setbacks out of whack.

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

Ms. Toothaker stated this was one of the original houses in Rio Vista and was built prior to current codes.

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

Ms. Toothaker stated the setbacks did not exist when the home was built.

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

Ms. Toothaker said she had not built the original house.

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.

Ms. Toothaker stated these were the minimum variances needed to construct an outdoor kitchen, which many other houses in the area already had.

Ms. Toothaker stated she had visited neighbors to explain the variance requests and there were no objections.

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.

Motion made by Mr. Villeneuve, seconded by Ms. Ellis:
To find that the requests meet the criteria and to grant all variances.
In a roll call vote, motion passed 7-0.

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CASE: PLN-BOA-19110001
OWNER: RONALD TOMS
AGENT: MICHAEL BARRY
ADDRESS: 1145 NE 15 AVENUE, FORT LAUDERDALE, FL., 33304
LEGAL DESCRIPTION: PROGRESSO 2-18 D E 68 OF LOTS 1 TO 3, BLK 155 LESS E 5
ZONING DISTRICT: RM-15
COMMISSION DISTRICT: 2
REQUESTING: **Sec. 47-5.34. - Table of dimensional requirements for the RM-15 and RMs-15 districts. (Note A)**

1. Requesting a variance from the 15 feet minimum rear yard requirements of Sec. 47-5.34 Table of Dimensional Requirements for the RM-15 district to permit an existing residence to remain 4.95 feet from the rear property line.
2. Requesting a variance from the 15 feet minimum rear yard requirements of Sec. 47-5.34 Table of Dimensional Requirements for the RM-15 district to allow the construction of a new addition 4.95 feet from the rear yard property line.

Michael Barry, contractor, said the owner wanted to extend the bathroom to make it ADA compliant because he needed to use a wheelchair.

Mr. Barry said he intended to re-truss the roof so the addition and original home would be under one roof. He said he had spoken with the neighbor to the rear and there had been no objection.

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. Villeneuve remarked that in the past, the Board had granted variances due to an individual's unique personal need, but limited it to that owner. These variances could not expire after the owner sold the home. He did not want this to set a precedent.

Motion made by Mr. Villeneuve, seconded by Mr. McGinley:
To find that the requests meet the criteria and to grant both variances.
In a roll call vote, motion passed 7-0.

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CASE:	PLN-BOA-19110002
OWNER:	SIETSE J KOOPMANS
AGENT:	HAROLD B LOVELL
ADDRESS:	2600 SE 21 STREET, FORT LAUDERDALE, FL., 33316
LEGAL DESCRIPTION:	BREAKWATER 42-19 B LOT 10 BLK 2
ZONING DISTRICT:	RS-8
COMMISSION DISTRICT:	4
REQUESTING:	Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district. (Note A)

1. Requesting a variance to allow a structure (an open structure attached to the existing building) open on three sides having a second-floor balcony with railing at Zero feet (0"0") rear yard setback, whereas the code requires a minimum of Fifteen feet (15'0") rear yard setback.

Harold Lovell, agent, stated the structure would make the property more useful. He admitted several people opposed the request, but stated he had letters of support from four neighbors to the west and east of the property.

Moe Berger, neighbor, stated he did not oppose the overhang for relief from the heat and said he had done the same on his property.

Ms. Ellis stated the homeowners' association board had opposed the request at their November 12 meeting.

Mr. Villeneuve pointed out that Mr. Berger's property had the same type of overhang, but without a second floor balcony and Mr. Berger said this had been his objection. Mr. Lovell stated the owner had agreed to eliminate the second floor railing so it would be exactly like Mr. Berger's overhang. He informed the Board that the new owner (who had not closed yet) was present.

Mr. Villeneuve remarked that Mr. Berger's landscaping created much more of a view obstruction than the requested structure.

Mr. Lovell informed the Board that the closing was not contingent upon the granting of this variance.

Chair Reynolds opened the public hearing.

Mauro De Mello, buyer, said the property was very hot because there was no shade. This was his priority, and he did not mind that the balcony request had been removed.

There being no other 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. Spence confirmed that the motion should include the condition that the balcony was now excluded from the request.

Mr. Malik confirmed that any shade structure that extended into the setback would require a variance.

Mr. Maxey stated many neighbors had complained that this would block their view of the ocean and affect their property values. It was not the owner's right to block other owners' views.

Ms. Ellis stated a canopy shade structure would not block views from the single-story homes to the west. She said properties to the west had no view to begin with.

Mr. Villeneuve pointed out that none of the neighbors who had sent letters in opposition to the request would suffer any impact from the shade structure. He said normally, he would not side against neighbors' opinions, but he felt that perhaps personal animus may be driving this response.

Motion made by Mr. Villeneuve, seconded by Ms. Ellis:

To find that the application meets the criteria and to grant the application, conditioned upon the structure only being a shade structure without a balcony.

In a roll call vote, motion passed 6-1 with Mr. Maxey opposed.

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CASE: B19032
OWNER: HARBOR BEACH INVESTMENTS LLC
AGENT: YULIYA A. PASHLAVICH
ADDRESS: 1147 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL.,
33316
LEGAL DESCRIPTION: OCEAN HARBOR 26-39 B LOT 19 & STRIP LYING S OF LOT
19
ZONING DISTRICT: RMH-25
COMMISSION DISTRICT: 4
REQUESTING: **Sec. 47-19.5. B Table 1 - Fences, walls and hedges.**
1. Requesting a variance to allow an after the fact wall at zero feet (0'0") front yard setback whereas the code requires a minimum average of 3'0" to meet the Landscaping requirements as per section 47-19.5. C.1
2. Requesting a variance to allow an after the fact wall at a height of eight feet (8'0") whereas the code allows a maximum height of six feet six inches (6'6")

Sec.47-19.5. C.1 Landscaping Requirements.

1. Requesting a variance to allow the Landscaping requirements to be exempt.

No applicant or agent was present, and Mr. Spence explained to the Board that they could hear the request and hold a public hearing and continue the case if they wished to postpone making a decision.

Chair Reynolds opened the public hearing.

Curtis Woodhouse, neighbor, said he did not object to the request for the existing wall.

Marla Woodhouse, neighbor, objected to the lack of a landscape barrier. She also objected to a wall higher than 6'6" for privacy.

Mr. Ford clarified that the solid portion of wall had existed for quite some time; the section above that had been built within the last 18 months. He stated the City would be comfortable to have just the added portion removed.

Mr. Malik could not opine as to whether any of the wall could remain if the Board denied the request because he did not know if the addition represented more than 50% of the wall.

There being no other 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.

Motion made by Mr. Falkanger, seconded by Ms. Ellis:

To deny the variance request, based on the fact that a five-foot wall was constructed upon a three-foot existing wall without a permit and they are asking for forgiveness and that the request does not meet the criteria of the code.

Mr. Maxey wished to table the item to give the owner the opportunity to consider a compromise. Mr. Spence stated if the Board denied the request now, the applicant had 30 days to file a motion for rehearing.

Mr. Villeneuve was also concerned about denying the application in the owner's absence.

Mr. Ford confirmed that there was a 2018 permit application for a 6' 6" fence. The code indicated that any fence over 4' 4" must be set back an average of three feet. The City had failed that permit application and informed the applicant that a variance was needed.

In a roll call vote, motion to deny 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

Other Items and Board Discussion

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There being no further business to come before the Board, the meeting adjourned at 8:00 pm.

Vice
Chair:



Attest:



ProtoType Inc.

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