



**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
JANUARY 13, 2021 – 6:30 P.M.**

CITY OF FORT LAUDERDALE

Board Members	Attendance	Cumulative Attendance 6/2020 through 5/2021	
		Present	Absent
Howard Nelson, Chair	P	4	1
Patrick McTigue, Vice Chair	P	5	0
Eugenia Ellis	P	4	1
Chadwick Maxey	P	5	0
Blaise McGinley	P	5	0
Douglas Reynolds	P	5	0
S. Carey Villeneuve	P	5	0

Alternates	Attendance	Present	Absent
Chip Falkanger	A	2	3
Shelley Eichner [until 6:37]	P	5	0
Michael Lambrechts	P	5	0

Staff

D' Wayne Spence, Assistant City Attorney
 Burt Ford, Zoning Chief
 Chakila Crawford, Administrative Assistant
 Mohammed Malik, Zoning Administrator
 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.

<u>Index</u>	<u>Case Number</u>	<u>Owner/Agent</u>	<u>District</u>	<u>Page</u>
1.	PLN-BOA-20030003	Daphne and Gerard D'Offay/Stephanie Toothaker	4	2
2.	PLN-BOA-20110002	Victoria Park at 12 LLC/Jason Crush.	2	5
		Communication to the City Commission For the Good of the City		6
		Other Items and Board Discussion		6

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 – December 2020

Motion made by Ms. Ellis, seconded by Mr. McGinley to approve the Board's December 2020 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

1. [Index](#)

CASE: PLN-BOA-20030003

OWNER: D'OFFAY, DAPHNE C & GERARD M

AGENT: STEPHANIE J. TOOTHAKER, ESQ.

ADDRESS: 2730 SW 19 STREET, FORT LAUDERDALE, FL.,
33312

LEGAL DESCRIPTION: BEL-TER 42-48 B LOT 28

ZONING DISTRICT: RS-8

COMMISSION
DISTRICT:
REQUESTING:

4

**Sec. 47-5.31 -Table of dimensional requirements
for the RS-8 district**

Requesting a variance from the 15 feet minimum rear yard requirement of section 47-5.31 Table of Dimensional Requirements to allow a covered patio roof, for which an after-the-fact permit is sought, to remain at a rear yard setback of 2 feet, a total maximum variance request of 13 feet.

Mr. Spence explained that res judicata did not apply; the City code included a process for a re-hearing once the Board determined it was appropriate.

Stephanie Toothaker, attorney, and Stefanie Mayorga provided a Power Point presentation, a copy of which is included with these minutes for the public record. Ms. Toothaker pointed out that the property line was not the seawall and the home was actually situated at the setback, so it was not possible to have any shade structure that was not in the setback. She said the 13-foot variance seemed extreme but it did not appear drastic in person. Ms. Toothaker stated they had received a letter of support from the neighbor who was most affected by the shade structure.

Ms. Toothaker referred to the variance criteria:

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

Ms. Toothaker said this was the only location the shade structure could be constructed. Because shade was so important in Florida, denial of the variance would prevent the reasonable use of the backyard area.

- 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; and

Ms. Toothaker said the owners had photographed several properties in the neighborhood that had similar shade structures in the rear yards. She said this lot was shaped differently because it was in a cul-de-sac. The shape of the property, and the location of the house, pool and deck on the property were particular to this property.

- 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; and

Mr. Toothaker said the way houses tended to be situated in Riverland was particular to this neighborhood. She showed photos of other properties in the area with similar shade structures.

- 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; and

Ms. Toothaker acknowledged that the owner had built the structure without a permit but said it met wind loads and code and could be accepted if the Board granted the variance. She reiterated that the house, pool and deck were all on the property when these owners purchased 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. Toothaker felt this was the least variance required. She said the shade structure complemented the pool and was built over the existing deck.

Ms. Toothaker informed the Board that Mr. and Mrs. D'Offay had spoken with Bryan McCallum, the neighbor who had objected to the request at the original hearing and he now supported the request. He had provided a letter of support.

Mr. Reynolds asked if the shade structure could be reduced in size. Ms. Toothaker replied they had considered this but it would be 'at great expense.' It would also still require a variance.

Mr. Nelson asked if anything else was obstructing the view down the waterway; he had noted a tree and hedge he believed would block the view.

Daphne D'Offay, owner, said the canopy was 20' by 13'. The hedge about which Mr. Nelson spoke was on Mr. McCallum's adjacent property.

Mr. Malik said the property was 75' wide and Mr. Nelson noted the canopy was less than 25% of the property width.

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

Motion made by Mr. Maxey, seconded by Ms. Ellis:
To approve the variance because it meets the criteria per the City code.
In a roll call vote, motion passed 6-1 with Mr. McGinley opposed.

2.

[Index](#)

CASE:	PLN-BOA-20110002
OWNER:	VICTORIA PARK AT 12 LLC
AGENT:	COURTNEY CALLAHAN CRUSH
ADDRESS:	612 NE 12 AVE, FORT LAUDERDALE, FL 33304 PROGRESSO 2-18 D LOTS
LEGAL DESCRIPTION:	29,30,31,32,33,34,35,36,37 & 38 BLK 306, LESS UNITS 612-622 , 626-636, 640-646 AKA:COMMON AREA VICTORIA PARK AT 12
ZONING DISTRICT:	RMM-25
COMMISSION DISTRICT:	2
REQUESTING:	<u>Sec. 47-19.2. Z.1 - Roof mounted structures</u>

Requesting a variance to allow the existing parapet screening which is +/- three(3) feet, to serve as adequate mechanical equipment screening in lieu of the requirements of sections 47-19.2.Z.1 and 47-25.3.A.3.b.iii of the ULDR, which requires that the rooftop mechanical equipment screening be at least six(6) inches high above the topmost surface of the roof mounted structure, for a total variance of a maximum of two(2) feet four(4) inches.

Mr. Ford struck the variance request for Section 47-25.3.A.3.b.iii because a variance was not needed for that section.

Jason Crush, attorney, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Mr. Crush noted there was a six to eight-inch sliver of the air conditioning units that was visible from the right-of-way. They wished to add an aluminum composite panel that matched the existing banding to screen the air conditioning units from the right-of-way.

Mr. Crush stated the air conditioning units were approved by DRC and when they changed the units, they were approved by the Building Department.

Gus Carbonell, architect, said he was not concerned about a technician having to work around the additional screening. He noted that the ladder was on the outside face of the building.

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

Mr. Crush proffered that the units labeled as 1, 2, 3 and 4 on Exhibit A would be screened from public view on the right-of-way.

Motion made by Mr. McGinley, seconded by Mr. McTigue:

To approve the variance request for Section 47-19.2.Z.1 because it meets the criteria per City code, including the applicant's proffer.
In a roll call vote, motion passed 7-0.

Communication to the City Commission

[Index](#)

None

Report and for the Good of the City

[Index](#)

Mr. Malik recalled that the Board had asked staff to review the fence ordinance regarding height. He said they were planning to provide suggestions at the City Commission's conference meeting in March. Anything approved in Commission conference would go before the homeowner's associations, the Planning and Zoning Board and then have two hearings before the City Commission. He agreed to notify applicants who had been denied fence variances for the past few months.

Mr. Malik said they were thinking of making the fence height as FEMA allowed.

Other Items and Board Discussion

[Index](#)

None

There being no further business to come before the Board, the meeting adjourned at 7:30 p.m.

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.