



**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
CITY HALL COMMISSION CHAMBERS  
FEBRUARY 9, 2022 – 6:00 P.M.**

CITY OF FORT LAUDERDALE

<b>Board Members</b>	<b>Attendance</b>	<b>Cumulative Attendance 6/2021 through 5/2022</b>	
		<b>Present</b>	<b>Absent</b>
Howard Nelson, Chair	P	6	1
Patrick McTigue, Vice Chair	P	7	0
Howard Elfman	A	6	1
Eugenia Ellis	A	6	1
Chadwick Maxey	P	6	1
Blaise McGinley	P	7	0
Douglas Reynolds	A	4	3

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<b>Alternates</b>			
Michael Lambrechts	P	6	1

**Staff**

D' Wayne Spence, Assistant City Attorney  
 Stephanie Hughey, Administrative Assistant  
 Chakila Crawford, Senior Administrative Assistant  
 Burt Ford, Zoning Chief  
 Mohammed Malik, Zoning Administrator  
 Jamie Opperee, Recording Secretary, Prototype Inc.

**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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	<b><u>Case Number</u></b>	<b><u>Owner/Agent</u></b>	<b><u>District</u></b>	<b><u>Page</u></b>
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2.	PLN-BOA-21120001	Ridge Houses 2 LLC/ Cabot Edewaard	2	<a href="#">4</a>
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4.	PLN-BOA-	Jarboe, Paul; Lisowski, Louis	2	<a href="#">6</a>

5.	<b>21120005 PLN-BOA- 21120006</b>	Kitchen, Diana H/E; Kitchen, Russell/Stephanie Toothaker	1	<u>6</u>
		Communication to the City Commission For the Good of the City Other Items and Board Discussion		<u>9</u> <u>9</u> <u>9</u>

I. **Call to Order**

The meeting was called to order at 6:01 p.m. Roll was called and a quorum determined to be present.

II. **Approval of Minutes – December 8, 2021**

**Motion** made by Mr. McTigue, seconded by Mr. McGinley, to approve the Board's December 8, 2021 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.**

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

Items were heard out of order.

Mr. Spence confirmed that in order to pass, an item must receive four affirmative votes.

IV. **Agenda Items**

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**CASE:** PLN-BOA-21110001

**OWNER:** Colombo, Matias A & Ginna Paola

**AGENT:** N/A

**ADDRESS:** 2431 SUGARLOAF LANE, FORT LAUDERDALE, 33312

**LEGAL DESCRIPTION:** SURVEY OF LOT 44, BLOCK 10, OF LAUDERDALE ISLE NO. 2., ACCORDING TO THE PLAT BOOK 37, PAGE 44 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

**ZONING**  
**DISTRICT:** RS-6.85A - Irregular Residential  
**COMMISSION**  
**DISTRICT:** 4  
**REQUESTING:** Sec. 47-39.A.6.F(1) - Dimensional requirements.

1. Requesting a variance from the minimum south side yard requirements of 7 feet 6 inches to be reduced to 2 feet 7 inches a total side yard reduction of 4 feet 11 inches.
2. Requesting a variance for an existing structure from the minimum North side yard requirements of 7 feet 6 inches to be reduced to 4 feet 4 inches a total side yard reduction of 3 feet 2 inches.

Matias Colombo, owner, described the requests. Regarding hardship, he said the storage already existed and the carport was an original structure and was falling apart. He had provided photos of many other homes in the area that had enclosed the carports. Mr. Colombo stated he was not adding any square footage and the carport would remain a garage.

Mr. Malik confirmed that the carport was an original structure. He could not confirm that the patio was part of the original structure. Mr. Colombo said he intended to remove the patio.

Mr. Spence said the item marked "Terrace" on the site plan would be removed.

Mr. Colombo said none of his neighbors had objected to his request. Staff confirmed no letters of objection or support had been received.

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. McGinley, seconded by Mr. Maxey:

To approve the variance requests for case PLN-BOA-21110001 because they meet the criteria for a variance.

In a roll call vote, motion passed 5-0.

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**CASE:** PLN-BOA-21120001

**OWNER:** Ridge Houses 2 LLC

**AGENT:** Cabot Edewaard

**ADDRESS:** 629 N.E. 18<sup>TH</sup> AVENUE, FORT LAUDERDALE, FL 33304

**LEGAL DESCRIPTION:** LOT 8, BLOCK 20, VICTORIA PARK, ACCORDING TO THE PLAT THEROF, AS RECORDED IN PLAT BOOK 10, PAGE 66, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA

**ZONING DISTRICT:** RS-8- Residential Single Family/Low Medium Density

**COMMISSION DISTRICT:** 2

**REQUESTING:** **Note:** The subject lot is a formerly legally nonconforming lot that lost its status in accordance with Section 47-3.3.B.3 of the ULDR which provides: "If two (2) or more lots with continuous frontage are in a single ownership and if any of the lots are nonconforming, the nonconforming lot and the parcel or lot abutting the nonconforming lot shall be deemed by operation of law to be merged and considered to be an undivided plot. No development permit shall thereafter be issued for a use of the nonconforming lot which has been merged with another parcel which recognizes a reduction of the merged parcel below the requirement for a lot which meets the ULDR requirements of the zoning district where the lot is located."

**Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district. (Note A)**

1. Requesting a variance from the minimum lot width requirements of 50 feet to 48 feet a total reduction of 2 feet.

Cabot Edewaard, agent, requested a deferral.

Steve Jernigan asked about deferral requests and Chair Nelson explained the process. Mr. Jernigan said he did not object to the request.

**Motion** made by Mr. McTigue, seconded by Mr. Lambrechts: To defer the case to the Board's next hearing. In a voice vote, motion passed 5-0.

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**CASE:** PLN-BOA-21120002

**OWNER:** Ridge Houses 2 LLC

**AGENT:** Cabot Edewaard

**ADDRESS:** 1765 N.E. 6<sup>TH</sup> COURT, FORT LAUDERDALE, FL 33304  
LOT 9, BLOCK 20, VICTORIA PARK, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 66,  
OF THE PUBLIC RECORDS OF BROWARD COUNTY,  
FLORIDA. CONTAINING 6,215 SQUARE FEET OR 0.1426  
ACRES, MORE OR LESS.

**LEGAL DESCRIPTION:**

**ZONING DISTRICT:** RS-8 -Residential Single Family/Low Medium Density

**COMMISSION DISTRICT:** 2

**REQUESTING:** Note: The subject lot is a formerly legally nonconforming lot that lost its status in accordance with Section 47-3.3.B.3 of the ULDR which provides: "If two (2) or more lots with continuous frontage are in a single ownership and if any of the lots are nonconforming, the nonconforming lot and the parcel or lot abutting the nonconforming lot shall be deemed by operation of law to be merged and considered to be an undivided plot. No development permit shall thereafter be issued for a use of the nonconforming lot which has been merged with another parcel which recognizes a reduction of the merged parcel below the requirement for a lot which meets the ULDR requirements of the zoning district where the lot is located."

**Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district. (Note A)**

1. Requesting a variance from the minimum lot width requirements of 50 feet to 48 feet a total reduction of 2 feet.

Cabot Edewaard, agent, requested a deferral.

**Motion** made by Mr. McTigue, seconded by Mr. McGinley: To defer the case to the Board's next hearing. In a voice vote, motion passed 5-0.

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**CASE:** PLN-BOA-21120005

**OWNER:** Jarboe, Paul; Lisowski, Louis

**AGENT:** N/A

**ADDRESS:** 44 NE 16 COURT, FORT LAUDERDALE, FLORIDA 33305  
LOT 14, BLOCK 1 OF PLACIDO PLACE, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE 43,  
OF THE PUBLIC RECORDS OF BROWARD COUNTY,  
FLORIDA.

**LEGAL DESCRIPTION:**

**ZONING DISTRICT:** RDS-15 - Residential Single Family/Medium Density

**COMMISSION DISTRICT:** 2

**REQUESTING:** Sec. 47-5.32. - Table of dimensional requirements for the RD-15 and RDs-15 districts. (Note A)

1. Requesting a variance from the required rear yard of 15 feet. The as built spot survey shows the rear setback from 14.60 feet, a total reduction of 0.40 feet.

Paul Jarboe and Louis Lisowski, owners, presented the request. They explained that the original home had been built with this setback encroachment; they were not building anything new.

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 Mr. McTigue:

To approve the variance request for case PLN-BOA-21120005 because it met the criteria for a variance.

In a voice vote, motion passed 5-0.

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**CASE:** PLN-BOA-21120006

**OWNER:** Kitchen, Diana H/E; Kitchen, Russell

**AGENT:** Stephanie J. Toothaker, Esq.

**ADDRESS:** 2657 NE 37 DRIVE, FORT LAUDERDALE, FL  
33308

**LEGAL DESCRIPTION:** LOT 14, BLOCK G OF CORAL RIDGE COUNTRY CLUB SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36, PAGE 30, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

**ZONING DISTRICT:** RS-4.4 - Residential Single Family/Low Density District.

**COMMISSION DISTRICT:** 1

**REQUESTING:** Sec. 47-19.2.P. Free Standing Shade Structures

1. Requesting a variance to allow an existing freestanding shade structure with outdoor kitchen to be partially enclosed on three sides with 36-inch high built-in cabinetry where the Code requires all sides to be open.
2. Requesting a variance to allow an existing freestanding shade structure with outdoor kitchen to have a maximum height of 13 feet where the Code allows a maximum height of 12 feet measured from the ground to the top of the structure.

Stephanie Toothaker, agent, gave a Power Point presentation, a copy of which is attached to these minutes for the public record.

Ms. Toothaker described how the request met the variance criteria:

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

The structure had been permitted and it was technically open on all four sides.

- 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.

This was very common in Fort Lauderdale.

- 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.

The structure had been permitted and these structure were very common.

- 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.

The permit was issued and the structure already built. There was no other way to protect the equipment.

- 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.

These structure were common throughout the City.

Ms. Toothaker said the intent of the code was to prevent construction of “Granny Flats” not summer kitchens. She presented letters of support from two adjacent neighbors.

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.

Chair Nelson felt this was a slippery slope and wished the applicant had brought this as a request for interpretation instead of a variance because determining whether this was “enclosed” was difficult for this structure. He felt this was not enclosed.

Mr. Ford stated these structures were supposed to be 100% open. A determination had been made years ago that one side could be enclosed up to 42” but all three other sides must be open. This enclosure was closed on more than one side.

Mr. Spence referred to the code language, which indicated all sides must be open and the structure no greater in height that 12 feet from the ground.

Mr. McGinley noted that in parking garages, there were calculations made to determine if the structure was open. Mr. Ford pointed out that in parking garages, the calculations were so specific because they dealt with exhaust requirements.

Ms. Toothaker said the original shade structure plans were permitted, but staff had flagged the project when the revision with the cabinetry was submitted.

**Motion** made by Mr. McGinley, seconded by Mr. Maxey:

To approve the variance requests for case PLN-BOA-21120006 because they met the criteria for a variance.

In a roll call vote, motion passed 5-0.



**Communication to the City Commission**

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Board members discussed the code regarding open structures and said they wished staff to investigate and clarify.

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

To have staff consider how the City treats enclosed/partially enclosed shade structures for outdoor kitchens. In a voice vote motion passed unanimously.

**Report and for the Good of the City**

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Mr. Spence recalled in 2019, the Board had issued a final order on an interpretation regarding Section 47-19.3 Boats, Slips, Docks, etc. Mr. Spence reported the Circuit Court had upheld the order and the DCA had affirmed the Circuit Court's finding.

**Other Items and Board Discussion**

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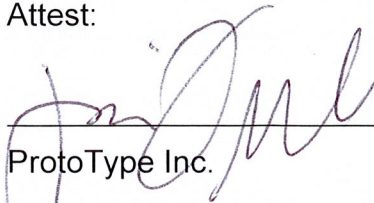
Chair Nelson advised that Mr. McTigue would be termed out from Board service prior to the new Board year.

There being no further business to come before the Board, the meeting adjourned at 6:44 p.m.

Chair:



Attest:



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ProtoType Inc.

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