



CITY OF FORT LAUDERDALE

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
DEVELOPMENT SERVICES DEPARTMENT  
700 NW 19<sup>th</sup> AVENUE, FORT LAUDERDALE,  
FLORIDA 33311  
SEPTEMBER 21, 2023 – 6:00 P.M.**

<b>Board Members</b>	<b>Attendance</b>	<b>Cumulative Attendance 6/2023 through 5/2024</b>	
		<b>Present</b>	<b>Absent</b>
Howard Elfman, Chair	P	4	0
Caldwell Cooper	P	3	1
Milton Jones [arrived 6:05]	P	3	0
Douglas Meade	P	3	1
Patricia Rathburn	P	4	0
Fred Stresau	P	4	0
Robert Wolfe, Vice Chair	P	4	0
Jason Hagopian [alternate]	P	1	0

**Staff**

D'Wayne Spence, Interim City Attorney  
 Chakila Crawford, Senior Administrative Assistant  
 Doris Coleman, Administrative Assistant  
 Mohammed Malik, Zoning Administrator  
 Burt Ford, Zoning Chief  
 James Hollingsworth, Zoning Plan Examiner  
 J. Opperlee, Recording Secretary, Prototype Inc.

**Communication to the City Commission**

None

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I.	<b><u>Call to Order</u></b>			

The meeting was called to order at 6:00 p.m. Roll was called and a quorum was determined to be present.

**II. Approval of Minutes – August 9, 2023**

**Motion** made by Mr. Wolfe, seconded by Ms. Rathburn to approve the Board’s August 9, 2023 minutes. In a voice vote, motion passed 7-0.

**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.

**IV. Agenda Items**

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<b>CASE:</b>	<b>PLN-BOA-23030005</b>
<b>OWNER:</b>	PETROSKY, MARK
<b>AGENT:</b>	N/A
<b>ADDRESS:</b>	901 SW 31 STREET, FORT LAUDERDALE, FL 33315
<b>LEGAL DESCRIPTION:</b>	LOT 1, BLOCK 3 OF “OAK GROVE”. ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 27, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)
<b>ZONING DISTRICT:</b>	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY
<b>COMMISSION DISTRICT:</b>	4
<b>REQUESTING:</b>	<b><u>Sec. 47-19.2.EE - Utility and tool sheds, residential districts.</u></b>

- Requesting a variance to allow an **EXISTING** Utility and tool shed with an open porch structure to have a side yard setback of 1 foot, whereas the code allows a minimum setback of 5 feet to the overhang. A total side yard setback reduction of 4 feet.
- Requesting a variance to allow an **EXISTING** Utility and tool shed with an open porch structure to have a maximum

side length of 18 feet 3 ½ inches, whereas the code allows a maximum side length of 12 feet. A total variance request for an increase of 6 feet 3 ½ inches.

- Requesting a variance to allow an **EXISTING** Utility and tool shed with an open porch structure to have a maximum height of 12 foot 6 ⅛ inches, whereas the code allows a maximum of 10 feet. A total variance request for an increase in height of 2 feet 6 ⅛ inches.
- Requesting a variance to allow an **EXISTING** Utility and tool shed with an open structure to have a total area of 333 square feet, whereas the code allows a maximum of 100 square feet. A total variance request for an increase of 233 square feet.

**Please Note: Based on the survey and sheet A-0.1, the area of the utility and tool shed is 230 square feet, the area of the porch is 103 square feet, a total area of 333 square feet. The difference in area is 233 square feet.**

**Sec. 47-19.1. L. – General Requirements**

- Requesting a variance to allow an **EXISTING** utility and tool shed at a height of 12 feet 6 ⅛ inches whereas the code only permits accessory structures height no greater than principal structure height of 11 feet 1 ½ inches. A total variance request for an increase in height of 1 foot 4 ⅝ inches.

**Please Note: Based on sheet A-0.1, the height of the utility and tool shed is 12 feet 6 ⅛”, and the height of the principal structure is 11 feet 1 ½ “, a total difference in height of 1 foot 4 ⅝”**

Mr. Jones arrived at 6:05.

Mark Petrosky, owner, described his need for the storage shed and showed photos of the structure. He said he was unaware that a permit was needed.

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

Mr. Petrosky said the backyard was too small to locate the storage unit there.

**Motion** made by Ms. Rathburn, seconded by Mr. Stresau:



To grant the variance requests because they meet the criteria for a variance. Motion failed 0-7.

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**CASE:** PLN-BOA-23070004

**OWNER:** HAJIANPOUR, MOHAMMAD A & ZOYA

**AGENT:** JAYSEN MATIAS

**ADDRESS:** 215 SE 12 AVENUE, FORT LAUDERDALE, FL 33301

**LEGAL DESCRIPTION:** LOT 15 BLOCK 18 OF BEVERLY HEIGHTS 10, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 30, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)

**ZONING DISTRICT:** RC-15 – RESIDENTIAL SINGLE FAMILY AND CLUSTER/MEDIUM DENSITY

**COMMISSION DISTRICT:** 4

**REQUESTING:** **Sec. 47-3.2. B.1 – Non-Conforming Structure**

- Requesting a variance to enlarge, alter and increase an **EXISTING** non-conforming structure, whereas the code does not allow it to be enlarged or altered in a way that increases its non-conformity.

**Sec. 47-3.2. B.2 – Non-Conforming Structure**

- Requesting a variance to allow an addition to an **EXISTING** non-conforming structure that does not meet current ULDR requirements.

**Sec. 47-5.33. - Table of dimensional requirements for the RC-15 and RCs-15 districts.**

- Requesting a Variance to reduce the rear yard setback to 2.8 feet of an **EXISTING** structure whereas the code requires a minimum setback of 15 feet. A total setback reduction request of 12.2 feet.
- Requesting a Variance to reduce the rear yard setback to 5-foot 1 inch of a **PROPOSED NEW STRUCTURE** whereas the code requires a minimum setback of 15 feet a total setback reduction request of 9 feet 11 inches.
- Requesting a variance to reduce the WEST corner yard

requirement of a **PROPOSED NEW STRUCTURE** to 11 feet 8 inches, whereas the code requires a minimum of 25 % of lot width at the front yard setback (58 feet 1 inch x 25% = 14 feet 7 inches). A total reduction request of 2 feet 10 inches.

- Requesting a variance to reduce the EAST corner yard requirement of a **PROPOSED NEW STRUCTURE** to 10 feet 8 inches, whereas the code requires a minimum of 25 % of lot width at the front yard setback (58 feet 1 inch x 25% = 14 feet 7 inch. A total reduction request of 3 feet 10 inches.

Eduardo Torrente and Felipe Martinez, design team members, provided a presentation, a copy of which is attached to these minutes for the public record.

Chair Elfman stated the City had received two letters of opposition to the request: one was from the Collee Hammock neighborhood and one was from the Beverly Heights neighborhood. He then opened the public hearing.

Joellyn Fellmeth, neighbor, said there was not sufficient reason to grant the variances, per the criteria. She stated the owner was requesting a substantial variance to the setbacks. She also feared that permitting this would set a precedent.

Molly Taylor, representing the Collee Hammock Homeowners Association, discussed their objections to the request. She remarked on the substantial reduction in setbacks the owner was requesting. She informed Mr. Cooper that they had not held an association meeting or taken a vote, but had communicated via email between board members. She estimated that seven of the eleven board members were opposed to this request and agreed to draft a letter of opposition.

Gary Warren, Beverly Heights Homeowners Association, said the variances requested were too great. Dan McNulty agreed with Mr. Warren.

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

Mr. Martinez explained that the existing house was already non-conforming. He claimed they were not expanding the footprint of the home except for a small addition on the northeast corner, which was the only area that would increase the non-conformity. Mr. Torrente said the area in grey on the plan on the south side of the home was now a covered porch but would be replaced with pavers. Mr. Martinez agreed to adjust the east side to meet the setback, as well as the slight southwest corner section that currently intruded into that setback.



Mr. Malik said the City did not know yet if the total project would cross the 50% threshold that would require the project to meet new codes. Mr. Spence said the non-conforming use code prohibited increasing the non-conformity, which the addition they proposed would do. The code also prohibited building an addition to a non-conforming structure. They were also seeking minor variances for the new structure. If the plan was changed as Mr. Martinez indicated, they would no longer need the last two variance requests related to Sec. 47-5.33. - Table of dimensional requirements for the RC-15 and RCs-15 districts.

Mr. Wolfe suggested the plans be adjusted and then the representatives meet with the neighborhood association.

Zoya Hajianpour, owner, said she had purchased the home because it was old. She said the planned structure replacing the porch was needed to make the home more livable by adding kitchen and bedroom space.

Mr. Stresau asked about the finished floor elevations and Mr. Ford agreed to have flood staff contact the owners and review what was required.

Ms. Hajianpour requested a deferral. and agreed to waive the time period for having the Board hear the request.

**Motion** made by Mr. Wolfe, seconded by Mr. Cooper:  
To defer the item for up to 90 days. Motion passed 7-0.

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<b>CASE:</b>	<b>PLN-BOA-23080002</b>
<b>OWNER:</b>	FRETHAM, CURT JOHN
<b>AGENT:</b>	ANDREW J. SCHEIN ESQ. / LOCHRIE & CHAKAS, P.A.
<b>ADDRESS:</b>	SW 14 WAY; 301 SW 14 WAY, FORT LAUDERDALE FL 33312
<b>LEGAL DESCRIPTION:</b>	LOT 3, 4, 5, 6 AND THE NORTH-HALF (N ½) OF LOT 7, BLOCK 2, RIVER HIGHLANDS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 3, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA AND CONTAINING 31,298 SQUARE FEET OF 0.7185 ACRES, MORE OR LESS. (SEE SURVEY)
<b>ZONING DISTRICT:</b>	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY

COMMISSION  
DISTRICT:  
REQUESTING:

2

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

- Requesting a variance to allow a minimum lot width of 56.25 feet for each lot, whereas the code requires a minimum lot width of 75 feet on the waterway. A total reduction of 18.75 feet for each lot, as per the plans and narrative.

**Sec. 47-24.5. D.3.c. ii.- Lots.**

- Requesting a variance to allow a minimum lot width of 56.25 feet for each lot, whereas the code requires a minimum lot width of 75 feet. A total reduction of 18.75 feet for each lot, as per attached plans and narrative.

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

Chair Elfman opened the public hearing.

Margi Nothard, neighbor, was glad the new owner intended to preserve the home, which was designed by Bill Bigoney. She said the neighbors were pleased the owner would relocate the home and wanted to encourage them to preserve as much landscaping as possible.

Blaise McGinley, neighbor, feared the developer intended to build structures that covered the entirety of these small lots. He said the lot had already been cleared of trees and did not resemble the photos presented anymore. He was not a fan of the four lot plan but approving a variance must include preserving the Bigoney home. He said the neighborhood would like to see more concessions regarding the pervious areas, additional landscaping and larger tree calipers.

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

Ms. Rathburn appreciated that the developer intended to preserve the Bigoney house and said the variance must be contingent upon the successful relocation of the home and this must be done first. Mr. Schein said they also needed approval from the Historic Preservation Board to move the home and he would agree to that condition. He said the owner intended to keep the trees.



Mr. Stresau said he previously owned two Bigoney homes, which were truly unique. He supported approval of the variance requests but was concerned that the Board would approve the variances and then the home would not be relocated.

**Motion** made by Ms. Rathburn, seconded by Mr. Wolfe:

To grant the variance requests because they meet the criteria for a variance, subject to the successful relocation of the Bigoney home to the northernmost portion of the property. Motion passed 6-1 with Mr. Meade opposed.

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**CASE:** PLN-BOA-23080003

**OWNER:** SHP VI/HOLDEN FORT LAUDERDALE LLC

**AGENT:** ANDREW J. SCHEIN ESQ. / LOCHRIE & CHAKAS, P.A.

**ADDRESS:** 1290 N FEDERAL HIGHWAY, FORT LAUDERDALE, FL  
33304

**LEGAL DESCRIPTION:** A PORTION OF PARCEL "A" THE MAROONE  
CHEVROLET PLAT, AS RECORDED IN PLAT BOOK 164  
PAGE 47 OF THE PUBLIC RECORDS OF BROWARD  
COUNTY, FLORIDA.  
SUBJECT TO EASEMENTS, RESTRICTIONS,  
RESERVATIONS, COVENANTS, AND RIGHT-OF-WAY OF  
RECORD. (SEE SURVEY)

**ZONING DISTRICT:** B-1 – BOULEVARD BUSINESS

**COMMISSION  
DISTRICT:** 2

**REQUESTING:** Sec. 47-19.3. (b) - Boat slips, docks, boat davits, hoists, and similar mooring structures.

- Requesting a variance to allow a 42" inch glass railing on top of the sea wall, whereas the code does not allow a railing on a seawall.

Andrew Schein, agent, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

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

Mr. Cooper asked the status of the existing chain link fence. Mr. Ford said the fence did not have a permit. He said a glass wall could be installed right behind the seawall.



Mr. Stresau said the ordinance did not address the requirement for a variance to locate the fence where they were requesting. Mr. Ford said the code section indicated what could be attached to a mooring structure. Mr. Stresau said that was only mooring devices and davits.

**Motion** made by Mr. Wolfe, seconded by Mr. Stresau:

To grant the variance request because it meets the criteria for a variance. Motion failed 4-3.

### **Communication to the City Commission**

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Mr. Meade said the new fence heights in relation to new flood elevations needed clarification. Mr. Spence clarified that the question was whether or not a taller fence would be facing an existing property or a low fence would be built on a newly developed property. He explained that the definition of “grade” was the finished floor of the house.

Mr. Malik said a previous BOA had requested the change, to measure the height of the fence from the finished floor elevation instead of the old rule, where it was measured from the lowest point on the property. This was to address privacy issues between older properties and newly developed properties that had higher floor elevations.

Mr. Meade said the finished floor of the house could be raised without raising the land and the home could be far away from the fence. Mr. Malik said staff was in the process of rewriting the code to provide different options.

Mr. Cooper discussed redevelopment on Castilla Isle, where the land was historically lower than on the other Isles and new homes could have a three to four foot difference in elevation from existing homes. Mr. Ford explained that there were different grades within the code for the floor’s finished structure and accessory structures, as well as fences. They were working to measure fences from ground level, not from the finished floor.

Mr. Stresau said the Board’s previous Communication to the City Commission was to ask the Planning and Zoning Board to discuss the definition of grade. He said Mayor Trantalis had indicated at a Commission meeting that it was not clear what the Board was requesting and Anthony Fajardo, Assistant City Manager and former Director of the Department of Sustainable Development, had discussed the issue of where the fence height was measured from. Mayor Trantalis had stated, “The higher the fences, the better.” Mr. Fajardo had then stated that without further clarification from the Board, he thought Mayor Trantalis’s assessment of what the BOA requested was correct.

Mr. Stresau was concerned about fence height on front property lines or on the face of the sidewalk. If fences’ heights were based on the home elevation, they could become over ten feet tall near a sidewalk. Mr. Malik recommended the Board wait to hear what staff came up with.

Mr. Spence recalled the Board had requested the amendment because of the number of variance requests for taller fences for newly developed homes in relation to the building elevation to address privacy concerns.

Mr. Spence agreed to speak with staff and get back to the Board.

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

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None

**Other Items and Board Discussion**

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None

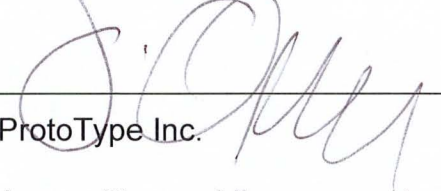
There being no further business to come before the Board, the meeting adjourned at 7:54 p.m.

Chair:



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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.