



CITY OF FORT LAUDERDALE

**MINUTES**  
**BOARD OF ADJUSTMENT MEETING**  
**CITY OF FORT LAUDERDALE**  
**DEVELOPMENT SERVICES DEPARTMENT**  
**700 NW 19<sup>th</sup> AVENUE, FORT LAUDERDALE,**  
**FLORIDA 33311**  
**March 13, 2024 – 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	10	0
Caldwell Cooper	P	7	3
Milton Jones	P	9	0
Douglas Meade	P	8	2
Patricia Rathburn	P	10	0
Robert Wolfe, Vice Chair	P	9	1
Jason Hagopian [alternate]	A	6	1

**Staff**

D'Wayne Spence, Deputy City Attorney  
 Burt Ford, Zoning Chief  
 Mohammed Malik, Zoning Administrator  
 Karen Ceballo, Administrative Assistant  
 James Hollingsworth, Zoning Plan Examiner  
 J. Opperlee, Recording Secretary, Prototype Inc.

**Communication to the City Commission**

None

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**I. Call to Order**

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 – February 14, 2024**

**Motion** made by Mr. Wolfe, seconded by Mr. Jones to approve the Board's February 14 2024 minutes. In a voice vote, motion passed 6-0.

**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-23110001</b>
<b>OWNER:</b>	1700 N ANDREWS LLC
<b>AGENT:</b>	JANNA P. LHOTA, ESQ.
<b>ADDRESS:</b>	1700 N ANDREWS AVE, FORT LAUDERDALE, FL 33305
<b>LEGAL DESCRIPTION:</b>	THAT PART OF TRACT "A" OF MERRIT ISLE, A RESUBDIVISION IN LAUDERDALE ISLES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, AT PAGE 38, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).
<b>ZONING DISTRICT:</b>	RM-15 - RESIDENTIAL MULTIFAMILY LOW RISE/MEDIUM DENSITY/ CB -COMMUNITY BUSINESS
<b>COMMISSION DISTRICT:</b>	2
<b>REQUESTING:</b>	<b><u>Sec. 47-25.3. A.3.d(i) - Neighborhood compatibility requirements, Buffer yard requirements</u></b>

- Requesting a variance from a requirement for a 10-foot landscape strip located along all property lines which are adjacent to a residential property, and which shall extend to the property lines for the total required\_a distance of 306.5 feet adjacent to residential property\_to be reduced to 80 feet, for\_a total variance request of 226.5 feet as depicted on plans sheet X-9.

**Sec.47-25.3. A.3.d(ii) - Neighborhood compatibility requirements, Parking restrictions**

- Requesting a variance to allow parking within 2.9 feet of the property line of a contiguous residential property for a length of 165' feet of the 306.5 feet of property length adjacent to a residential property line, whereas the code requires a minimum setback of 12 feet, a total variance request of 9.1 feet for a length of 165' feet, as depicted on the plans (sheet X-9). Please Note: Of the 306.5', 141.5' will have no parking and complies.

**Sec. 47-25.3. A.3.d(iii) - Neighborhood compatibility requirements, Dumpster regulations**

- Requesting a variance to allow a dumpster to be located 4 feet from a residential property line, whereas 12 feet is required for a total variance request of 8 feet.

**Sec. 47-25.3. A.3.d.iv(b) - Neighborhood compatibility requirements, Wall requirements.**

- Requesting a variance to reduce the total lineal foot requirement of a wall abutting a residential property line from the required 306.5 feet to 138 feet, a total variance request of 168.5 feet. As depicted on plans sheet X-9.

Note: This case was deferred from the February 14, 2024, BOA meeting agenda.

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

Ms. Lhota reviewed the criteria for a variance:

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

Ms. Lhota stated the parcel had a split land use, which required the owner to rezone the property in order to build anything other than a community facility and that the commercial parcel was very constrained due to its triangular shape and small size. It also had access issues and a bus stop.

*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. Lhota said this was a unique parcel due to the split land use designation, the size and shape of the parcel.

*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. Lhota said the buffer yard requirements were meant to protect existing residential properties from commercial development and she felt maintaining the buffer yard requirement would deprive the owner of the right to realize the commercial use on the property that was zoned for it.

*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. Lhota said this parcel had long had a split underlying land use. The commercial portion was a unique shape and size. The right-of-way dedications further reduced the development size of the parcel.

*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. Lhota stated the adjoining residential property would be approved as part of the site plan and the development scheme would be known to any purchasers because of restrictive covenants and easements.

Ms. Lhota said they had met with South Middle River Civic Association, the Spanish Spring Townhome Association, and had a letter of support from the South Middle River Civic Association and a letter of agreement with Spanish Spring. She said the restrictive covenant would prohibit certain uses and set rules for business hours of operation, signage, trash container locations, trespass prevention, and elevation enhancements.

Mr. Spence reminded the Board that they served as fact finders of whether the application met the criteria for granting a variance. He stated conditions may only be imposed if the Board found that the application did not meet the criteria but for the imposition of the condition, which would allow it to meet a criterion. He said some conditions proffered in the restrictive covenant were more appropriate as conditions to application under a development review.

Chair Elfman opened the public hearing.

Amy Fread, representing Spanish Spring Townhomes, said they initially did not approve of the variances but had determined some things were more important to them, such as the aesthetics and restricting undesirable tenants. She said covenants could be amended and they wanted to be sure tenants would always be compatible with the neighborhood. Mr. Spence said this Board could not provide that protection but Ms. Lhota said they had committed to including the prohibited uses and other conditions in a restrictive covenant made during site plan approval. Ms. Fread asked how this would work if the commercial property were sold and Mr. Spence said a restrictive covenant allowed the entity that benefited from the restriction to enforce the covenant. Ms. Lhota said if the commercial owner wanted a change in the future, thus would require consent from all the townhome owners.

Ms. Rathburn clarified with Mr. Spence that the Board must indicate that inclusion of the conditions was what made the application meet the criteria. She added that the neighboring properties could only enforce the covenants if they were beneficiaries. She suggested adding a "Whereas" clause indicating that Spanish Spring Townhomes was a beneficiary.

Vincent Marcoccia, Spanish Spring resident, said he was in favor of the development because it would increase his property's value and act as a sound barrier to Andrews Avenue.

Frank Gonzalez, neighbor, said Spanish Spring and other neighbors should have the ability to enforce the conditions. He noted there were other small and oddly shaped properties in the City that had been developed without variances.

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. Lhota said the parking limited the types of uses the commercial property could have. They thought it would probably be a professional office or retail. She listed the specific commercial uses they had agreed to exclude and said they could also include this in a deed restriction that would run with the property. They could also require that every townhome owner must agree to any changes.

Ms. Lhota acknowledged to Ms. Rathburn that they could have changed the land use on the commercial parcel to meet criterion "A" but that would be extremely costly and time consuming.

Ms. Lhota described how trash collection was covered in the letter of agreement. Mr. Mead was bothered by the commercial trash collection, which he thought may disturb the residential uses but Ms. Lhota said they needed to check with the service provider to see what accommodations they could make.

Mr. Cooper was concerned about the residential trash collection and Ms. Lhota said staff had vetted the site plan and not raised this issue. Mr. Ford said this method was common for townhomes and Ms. Lhota said the City trucks would access the trash bins via the private drive.

Ms. Rathburn said the request for a variance regarding Sec. 47-25.3. A.3.d(i) [the landscape buffer] met the criterion "A" because of the split zoning and there was no separation between the residential and commercial; it met criterion "B" because there were not a lot of City parcels with split zoning and land uses; it met criterion "C" because this was a hybrid parcel; it met criterion "D" because resolving the hardship would have been extremely expensive; it met criterion "E" only with the deed restrictions and covenants outlined in the correspondence, which made the development compatible with the adjoining properties, and the agreement made in the letter to Spanish River Townhomes, that would specifically name them as a beneficiary of the covenant and therefore able to enforce the restrictions.

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

To approve the variance request regarding Sec. 47-25.3.A.3.d(i) for the landscape buffer yard because it meets the criteria, per Ms. Rathburn's earlier remarks, subject to the conditions outlined in the letter to the Spanish Spring Townhome Association supplemented by the proffer tonight that there would be a deed restriction saying that none of the uses that were objectionable to Spanish Spring would ever be permitted on the property and that the deed restrictions and covenants would specifically say that Spanish Spring is a beneficiary and has the right to enforce those covenants. **Motion** passed 6-0.

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

To approve the variance request regarding Sec.47-25.3.A.3.d(ii) for the parking setback because it meets the criteria per Ms. Rathburn's earlier remarks, specifically with respect to neighborhood compatibility, and incorporating the proffer made with the deed restrictions and covenants and allowing the neighboring property owner to enforce those.

Mr. Mead requested amending the motion to indicate only head-in parking was allowed. Mr. Spence said they could not show a nexus between the variance criteria and head-in parking. Mr. Mead said this would prevent headlights shining into residential uses. Ms. Lhota said they would agree to post signage. Ms. Rathburn did not accept the amendment.

**Motion** passed 5-1 with Mr. Meade opposed.

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

To approve the variance request regarding Sec. 47-25.3.A.3.d(iii) for the dumpster location because it meets the criteria per Ms. Rathburn's earlier remarks regarding the first variance request. **Motion** passed 5-1 with Mr. Meade opposed.

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

To approve the variance request regarding Sec. 47-25.3.A.3.d.iv(b) for the residential buffer wall because it meets the criteria in terms of the building acting as the continuation of the wall and that it was the minimum variance required to build the project as outlined, incorporating Ms. Rathburn's earlier remarks regarding the first variance request and subject to including all those covenants and restrictions and deed restrictions. **Motion** passed 6-0.

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<b>CASE:</b>	<b>PLN-BOA-23120003</b>
<b>OWNER:</b>	SOFIKO 14 LLC
<b>AGENT:</b>	FITZ MURPHY
<b>ADDRESS:</b>	2669 E COMMERCIAL BLVD, FORT LAUDERDALE, FL 33308
<b>LEGAL DESCRIPTION:</b>	LOT 7, BLOCK 2, LESS THE SOUTH 50 FEET THEREOF, CORAL RIDGE COMMERCIAL BOULEVARD ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 43, PAGE 13, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).
<b>ZONING DISTRICT:</b>	CB - COMMUNITY BUSINESS
<b>COMMISSION DISTRICT:</b>	1
<b>REQUESTING:</b>	<b><u>Sec. 47-18.21. H.3- Landscaping and open space requirements</u></b> <ul style="list-style-type: none"><li>• Requesting a variance to waive the requirement for a 1,400 gross square foot public plaza with principal pedestrian access to the mixed-use development.</li></ul> <b><u>Sec. 47-18.21. I.2. -Dimensional requirements</u></b> <ul style="list-style-type: none"><li>• Requesting a variance from the dimensional requirements for the minimum lot size of 10,000 gross square feet to be reduced to 7,350 gross square feet, a total reduction request of 2,650 gross square feet.</li></ul> <b><u>Sec 47-18.21. I.5-Dimensional requirements</u></b> <ul style="list-style-type: none"><li>• Requesting a variance from the minimum lot width of 100 feet to be reduced to 35 feet, a total reduction request of 65 feet.</li></ul>

Fitz Murphy, agent, provided a presentation describing the request.

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 if converting to apartments without using the Affordable Housing Act would change the request and Mr. Murphy said they had originally asked for Flex but there were no Flex units available so the applicant had taken this route to develop residential on the property, which he believed was the best use.

Ms. Rathburn said she was a proponent of affordable housing but it needed to be appropriate for the site and she could not see a family living above a strip center. She thought this did not meet any of the variance requirements.

Mr. Wolfe thought the restrictions of the lot size satisfied criterion "A". He noted there was existing nearby housing on top of commercial uses.

Mr. Murphy stated the north side of the property was all residential and they entered the parking area through the alley. He noted there was a 1,000 square foot roof deck at the rear. He said the residential space was accessed from a ground floor stairwell and a rear stairwell accessed the roof deck. Mr. Murphy stated they had no specific requirements for the commercial space. He said there was no intent for the residential space to be owner occupied.

Mr. Spence stated there are income requirements associated with low income/affordable housing.

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

To approve the variance requests regarding case PLN-BOA-23120003 because they met the criteria. **Motion** failed 2-4 with Mr. Cooper, Mr. Meade, Ms. Rathburn and Chair Elfman opposed.

Later in the meeting, there was a question regarding how many of the variance requests were covered by the motion so Mr. Wolfe agreed to clarify.

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

To clarify that the previous motion was intended to include all three variance requests. **Motion** passed 6-0.

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<b>CASE:</b>	<b>PLN-BOA-23120004</b>
<b>OWNER:</b>	VILLANUEVA, LUIS; VILLANUEVA, MARIA TERESA
<b>AGENT:</b>	N/A
<b>ADDRESS:</b>	2120 IMPERIAL POINT DR, FORT LAUDERDALE, 33308



**LEGAL DESCRIPTION:** LOT 11, BLOCK 21 OF "IMPERIAL POINT 1<sup>ST</sup> SECTION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 53, AT PAGE 44, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).

**ZONING DISTRICT:** RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY

**COMMISSION DISTRICT:** 1

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

- Requesting a variance from the minimum 15 feet setback to be reduced to 7.5 feet for an existing after the fact attached enclosed patio, a total reduction request of 7.5 feet.

Luis Villanueva, owner, described the request and distributed photos of his daughter's emotional support pets, for whom they needed the enclosed patio.

Chair Elfman opened the public hearing.

Charlene Shaw, adjacent neighbor, said the Villanuevas had made significant improvements to the property. She was concerned because the addition was close to her bedroom and there could be noise issues.

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. Villanueva said they intended the addition to contain the noise from the dogs. Mr. Wolf asked if the addition had been built already and if it had been permitted. Mr. Villanueva said they had done the work without a permit. Mr. Ford said Mr. Villanueva had submitted an application for an after-the-fact permit. It had been flagged by zoning review because of the setback issue. Ms. Rathburn said the site plan indicated this was an office.

Pedro Bazam, contractor, said he had assumed the setback was less but found out that it was 15 feet because of the shape of the lot.

Mr. Wolfe said he would not support this because it did not meet the criteria and it was a non-conforming structure.

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

To deny the variance request because it did not meet the criteria and because this was a non-conforming structure. **Motion** passed 5-1 with Ms. Rathburn opposed.

The Board took a brief recess.

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**CASE:** PLN-BOA-24010004  
**OWNER:** STELMAKH, IRINA  
**AGENT:** N/A  
**ADDRESS:** 1400 SW 28 ST, FORT LAUDERDALE, FL 33315  
**LEGAL DESCRIPTION:** LOT 8, BLOCK 1, OF "HIBISCUS PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, AT PAGE 29, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).  
**ZONING DISTRICT:** RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY  
**COMMISSION DISTRICT:** 4  
**REQUESTING:** **Sec. 47-5.31- Table of dimensional requirements for the RS-8 district. (Note A).**

- Requesting a variance to add a new second floor structure to an existing non-conforming structure at a front yard setback of 20.75 feet, whereas the minimum code requirement is 25.00 feet, a total variance request of 4.25 feet.
- Requesting a variance to add a first-floor addition on the west side to match the existing non-conforming structure at a front yard setback of 20.75 feet, whereas the minimum code requirement is 25.00 feet, a total variance request of 4.25 feet.
- Requesting a variance to add a new attic structure to an existing non-conforming structure at a corner yard setback of 9.00 feet, whereas the minimum code requirement is 17.50 feet, a total variance request of 8.50 feet.

**Sec. 47-19.2. Y.3 - Accessory buildings, structures, and equipment, general.**

- Requesting a variance to allow the front porch to be open on only one side, whereas the code requires the front porch to be open on two sides.

**Sec. 47-3.2. B.1- Continuation of a nonconforming structure.**

- A nonconforming structure may not be enlarged or altered in a way which increases its nonconformity.

Irina Stelmakh and Franco LoPresto owners, and Annette Hatchard, architect, described the request. Ms. Stelmakh said the home had been destroyed by the April 2023 flood.

Chair Elfman opened the public hearing.

Jonathan Broughton, neighbor, said the home desperately needed to be rebuilt and he fully supported the owners' plans.

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. Meade asked why the porch was supposed to have two openings and Mr. Ford explained that when the porch was allowed to be farther into the setback [17 feet instead of 25 feet] it must have two open sides.

Mr. Meade suggested adding to the rear of the house instead. The architect said there was an existing shed and pool in the rear yard. Mr. LoPresto said this would also leave them with no backyard for their children to use.

Ms. Rathburn noted the hardship was not self-created but was caused by FEMA requiring the building to be elevated to meet new floor requirements; everyone else in the neighborhood had those setbacks, and the requests met every variance criterion. Regarding criterion "A", she said this was an existing, non-conforming use; regarding criterion "B", she said it met this criterion because of the original non-conforming use and because the circumstances affected a small number of properties; regarding criterion "C", she said the owners could not live in the property unless they rebuilt; regarding criterion "D" she stated the hardship was not self-created.

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

To approve all variance requests because they meet the criteria per Ms. Rathburn's earlier remarks. **Motion** passed 6-0.

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<b>CASE:</b>	<b>PLN-BOA-24020004</b>
<b>OWNER:</b>	FL-5 HOLDINGS LLC
<b>AGENT:</b>	ANDREW SHEIN, ESQ
<b>ADDRESS:</b>	1460 SW 23 ST, FORT LAUDERDALE, FL 33315

**LEGAL DESCRIPTION:** PARCEL "A", MARINA LANDINGS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 183, PAGE 601, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).

**ZONING DISTRICT:** RD-15 - RESIDENTIAL SINGLE FAMILY AND DUPLEX/MEDIUM DENSITY

**COMMISSION DISTRICT:** 4

**REQUESTING:** Sec. 47-22.3. G.- Ground sign

- Requesting a variance to permit a ground sign in the RD-15 zoning district, whereas ULDR Section 47-22.3. G. does not permit ground signs in the RD-15 zoning district to permit a ground sign at a height of 9'- 6", whereas ULDR Section 47.22.3.G limits ground signs to 5' in height.

Andrew Schein, agent, provided a 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.

Chair Elfman asked about the size of the sign and Mr. Schein explained that the base of the sign would be surrounded with plantings and would not appear as large. He said only about five to six feet would be visible. He said this was not inconsistent with other similar signs.

**Motion** made by Mr. Wolfe, seconded by Mr. Meade:  
To approve the variance request because it meets the criteria.

Ms. Rathbun offered an amendment: the request meets the criteria in that it is a unique property and this was the minimum variance that would make possible reasonable use of the property, and special conditions affect the property at issue which prevent the reasonable use of it otherwise. Mr. Wolfe and Mr. Meade accepted the amendment.

**Motion** passed 6-0.

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None

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None

**Other Items and Board Discussion**

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Mr. Cooper asked about Mr. Stresau's status and Mr. Spence explained that he had been automatically removed from the Board for his absences, but he could request reappointment. Mr. Spence explained that as of now, there was no such thing as an excused absence for a Board member. If the Board wished, they could request the City Commission amend the absentee policy to allow for excused absences.

Ms. Rathburn was certain the Commissioner who had appointed Mr. Stresau would reappoint him. She had seen excused absences abused on other boards and therefore did not wish to request a change in policy. Mr. Spence said the Board itself would vote on a request for an excused absence. Ms. Rathburn suggested Board members contact the City Commission regarding Mr. Stresau's unique situation.

There being no further business to come before the Board, the meeting adjourned at 8:40 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.