



CITY OF FORT LAUDERDALE

MINUTES
BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
DEVELOPMENT SERVICES DEPARTMENT
700 NW 19th AVENUE, FORT LAUDERDALE,
FLORIDA 33311
April 10, 2024 – 6:00 P.M.

Board Members	Attendance	Cumulative Attendance 6/2023 through 5/2024	
		Present	Absent
Howard Elfman, Chair	P	11	0
Caldwell Cooper	P	8	3
Milton Jones	P	10	0
Douglas Meade	P	9	2
Patricia Rathburn	P	11	0
Fred Stresau	P	1	0
Robert Wolfe, Vice Chair	P	10	1
Jason Hagopian [alternate]	P	7	1

Staff

D'Wayne Spence, Deputy City Attorney
 Burt Ford, Zoning Chief
 Chakila Crawford, Senior Administrative Assistant
 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.

Chair Elfman welcomed Mr. Stresau back to the Board.

II. Approval of Minutes – March 13, 2024

Ms. Rathburn had a question about the minutes so approval was postponed to the next meeting.

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

1.				Index
CASE:		PLN-BOA-23030003		
OWNER:		WALTON, MICHAEL RAYMOND; LOFRIA, MICHELE		
AGENT:		N/A		
ADDRESS:		5560 NE 26 AVENUE, FORT LAUDERDALE, FL 33308		
LEGAL DESCRIPTION:		LOT 2, BLOCK 3, "GOLF ESTATES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 43, PAGE 26, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)		
ZONING DISTRICT:		RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY		
COMMISSION DISTRICT:		1		

REQUESTING: **Request for Rehearing of Final Order/Case PLN-BOA-23030003. This rehearing request is pursuant to ULDR Sec. 47-24.12. A.7 on a denial of the following variance requests:**

Sec. 47-19.1. L. - General requirements.

- Requesting a variance to allow a free-standing shade structure to be 17.44' high, whereas the code does not allow a freestanding shade structure to exceed the height of the principal structure, which is 14.8' high. A total variance request of 2.64 feet in height.

Sec. 47-19.2. P.- Freestanding shade structures.

- Requesting a variance to allow an existing freestanding shade structure to have a maximum height of 17.44 feet, whereas the code allows a maximum height of 12 feet measured from the ground to the top of the structure. A total variance request of 5.44 feet in height.
- Requesting a variance to allow an existing freestanding shade structure to have a setback of 7 feet FROM WATERWAY whereas the code requires a minimum of 10 feet setback FROM WATERWAY a total variance request of 3 feet.

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

Mr. Spence stated the applicant had filed the request for a rehearing timely. The Board heard other cases while Ms. Crawford distributed copies of the written request for Board members to review.

Upon returning to the case, Michael Walton, owner, explained the request. He said a vindictive neighbor had complained about the Tiki hut and then moved. He explained that some of the documentation had been left out the second time he submitted the variance application. He wanted to submit a request with reduced height and waterside encroachment.

Mr. Spence stated there were two criteria for granting a rehearing. The first was an error and the second was to consider new information not available at the time the request was denied, which was also not known to the applicant.

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. Stresau did not feel the applicant's request provided a detailed explanation of why the Board had made a mistake. Mr. Spence stated the applicant should have provided a detailed explanation of why this met one of the criteria for a rehearing.

Motion made by Mr. Wolfe, seconded by Mr. Jones:
To **deny** the rehearing request. **Motion** passed 7-0.

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CASE:	PLN-BOA-24020001
OWNER:	ESTATE MANORS INC; WALTERS, LAWRENCE
AGENT:	N/A
ADDRESS:	1616 SW 17 AVE, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	LOT 15, OF BOSSERT ISLES, ACCORDING TO THE PLAT THEREOF, AS RECORDED PLAT BOOK 46, PAGE 42, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).
ZONING DISTRICT:	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY
COMMISSION DISTRICT:	4
REQUESTING:	<u>Sec. 47-5.31- Table of dimensional requirements for the RS-8 district. (Note A).</u>

- Requesting a variance from the minimum 25 feet corner yard setback abutting a waterway to be reduced to 15.73 feet, a total variance request of 9.27 feet.

Sec. 47-19.2. B. - Architectural features in residential districts.

- Requesting a variance to allow an eave/overhang to project into a setback of 4.6 feet, whereas the code allows a maximum of 3 feet from the approved setback, a total variance request of 1.6 feet.

Lawrence Walters, owner, and Kurt Petgrave, architect, described the request. They noted the issue had been discovered during the final zoning inspection. Mr. Walters said it would cost \$150,000 to cut back the overhang.

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. Ford said the original plans had a smaller overhang and the revised plans were not routed to Zoning for review. He noted the ULDR indicated that if something was not caught by the City it was still illegal. The architect and contractor were responsible for knowing the local code. Mr. Meade said it was noted on the plans where the overhang was so the architect and contractor should have known.

Ms. Rathburn thought the plans examiners should have seen the problem but Mr. Ford said each examiner was discipline-oriented.

Mr. Stresau referred to the criteria for a variance:

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

He stated there were no conditions that would warrant this.

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;

He said there was no special condition.

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;

He said this was due to the architectural drawings being wrong and the contractor building it despite that.

Ms. Rathburn said regarding criterion:

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.

She felt this was the minimum, since it would not affect other properties.

Mr. Ford clarified that the code indicated they could encroach 36" into the 25-foot setback. This was encroaching seven to eight feet.

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

To approve the variance request regarding Sec. 47-5.31 for the corner yard setback and Sec. 47-19.2. B. regarding the setback encroachment because they meet the criteria.

Motion failed 4-3 with Mr. Jones, Mr. Meade and Mr. Stresau opposed.

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CASE:	PLN-BOA-24020006
OWNER:	M & G CHASE FAM REV LIV TR; CHASE, MICHAEL W & GRACE TRUSTEES
AGENT:	DIANA MOISEI
ADDRESS:	3730 W BROWARD BLVD, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	THE WEST 90 FEET OF THE EAST 136 FEET OF THE NORTH 150 FEET OF TRACK 2, "MELROSE PARK SECTION 8", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 39, PAGE 36, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).
ZONING DISTRICT:	B-1 - BOULEVARD BUSINESS
COMMISSION DISTRICT:	3
REQUESTING:	<u>Sec. 47-18.4 (C). - Automotive repair shop.</u>

- Requesting a variance from the minimum lot width of 100 feet to be reduced to an existing lot width of 90 feet, a total variance request of 10 feet.

Diana Moisei, agent, and Cyril Cythu described the request. Mr. Cythu said this had been an auto repair shop since prior to 1997 when the code changed. Mike Chase, property owner, explained how his property straddled Plantation and Fort Lauderdale. He said this had been an auto repair shop forever. When the current business owner applied for the business tax, he had discovered the problem.

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.

Ms. Rathburn referred to the criteria:

a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property Special conditions and circumstances
She said this applied because it had been operating as a car repair garage for years.

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;
She stated it may well be a non-conforming lot.

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;
She agreed that denying the variance would deny the owner a property right.

Mr. Ford said this had been an ongoing auto repair business but they had exceeded the 180 days allowed after the previous Business Tax Receipt for auto repair lapsed before renewing.

Motion made by Ms. Rathburn, seconded by Mr. Wolfe:
To approve the variance request because it meets the criteria per Ms. Rathburn's remarks. **Motion** passed 7-0.

The Board then returned to the first case.

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CASE:	PLN-BOA-24020007
OWNER:	SILVA, MARTIN I
AGENT:	N/A
ADDRESS:	1301 NE 1 AVE, FORT LAUDERDALE, FL 33304
LEGAL DESCRIPTION:	LOT 12 LESS THE SOUTH 15 FEET FOR READ, BLOCK 82 OF PROGRESSO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 18 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA. (SEE SURVEY).
ZONING DISTRICT:	RDS-15 - RESIDENTIAL SINGLE FAMILY / MEDIUM DENSITY
COMMISSION DISTRICT:	2
REQUESTING:	<u>Sec. 47-5.32. - Table of dimensional requirements for the RD-15 and RDs-15 districts. (Note A)</u> <ul style="list-style-type: none">• Requesting a variance from the minimum 10.0-foot corner yard setback to be reduced to an existing side yard setback of 0.0 feet, a total variance request of 10.0 feet.

Martin Silva, owner, and Mina Herrera, contractor, described the request. Mr. Silva said he needed an addition to accommodate his elderly father.

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. Ford clarified that the addition would be to the west and due to a taking for 13th Street, the south side of his property was on the property line. The addition would follow the line of the existing home 11 more feet.

Mr. Ford stipulated that if the Board approved, the variance would not pertain to two errors on the plans. There should be no overhang on the sidewalk edge and the air conditioning unit shown on the plans was not part of this request.

Ms. Rathburn asked if the Board could limit a variance to this structure only. She did not want the variance to apply if the entire structure were torn down and rebuilt.

Mr. Stresau pointed out that since the City's taking for 13th Street, it would be virtually impossible to rebuild if the building were torn down because the lot was only 35 feet wide.

Mr. Spence suggested making the variance subject to the non-conforming structure criteria to rebuilding. If less than 50% was being rebuilt, they would be permitted to rebuild, but more than 50% being rebuilt must comply with all codes.

Mr. Ford said there was a section of code that said one could build a single family home on any non-confirming lot if it met setback requirements.

Ms. Rathburn stated the request met the following variance criteria:

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

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

To approve the variance request because it meets the criteria per Ms. Rathburn's remarks. **Motion** passed 7-0.

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CASE: PLN-BOA-24030002
OWNER: FAIRFIELD CYPRESS LP
AGENT: ANDREW SCHEIN
ADDRESS: 6500 N ANDREWS AVE, FORT LAUDERDALE, FL 33309
LEGAL DESCRIPTION: A PORTION OF PARCELS "G" AND "H" AND A PORTION OF N.E. 1ST WAY (NOW VACATED), AS SHOWN ON THE PLAT PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, (SEE SURVEY).

ZONING DISTRICT: UUV-NE - UPTOWN URBAN VILLAGE NORTHEAST DISTRICT

COMMISSION DISTRICT: 1

REQUESTING: Sec. 47-19.2. Z.1- Roof mounted structures.

- Requesting a variance to allow the existing permitted parapet to remain at a height ranging from 90'-8" to 93'-9" above ground level, (3" to 4'-7" below the top most surface of the roof mounted structure measuring at a height of 95'-4" above ground level), to serve as adequate mechanical equipment screening in lieu of the requirements of Section 47-19.2.Z.1 of the ULDR, which requires that the rooftop mechanical equipment be at least six (6) inches high above the top most surface of the roof mounted structure or in this instance 95'-10" above ground level, for a total variance of a maximum of 5' -2 ".

Andrew Schein Esq., 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.

Mr. Stresau asked Mr. Ford why this had not been identified in plan review at the Building Department. Mr. Ford said DRC reviewed architectural but not structural drawings. Zoning reviewed it at permitting. He said during construction, the equipment installed was taller than on the plans and was now taller than the screening. He was also unsure the parapet walls were pre-tensioned as Mr. Schein indicated, which might make it impossible to change.

Mr. Schein said when they codified the Downtown RAC and they changed the mechanical equipment screening, the City cracked down on the parapet height issue.

Mr. Ford stated the code for the RAC used to indicate that equipment was screened to line of sight from the ground. In 2020 or 2021, it became the same as non-RAC equipment, which was screening must be a minimum of 6" above mechanical equipment.

Mr. Schein stated the interpretation and application had changed, not the code.

Ms. Rathburn stated this request met the following criteria:

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;

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.

She said although this had been in the code, it was being interpreted differently. Because of the possible danger of reconstruction this was also the minimum variance to make possible a reasonable use of the property.

Motion made by Mr. Cooper, seconded by Mr. Wolfe:

To approve the variance request because it meets the criteria. **Motion** passed 6-1 with Mr. Cooper opposed.

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CASE:	PLN-BOA-24030003
OWNER:	MURRAY, CHRISTOPHER C; MURRAY, ANN
AGENT:	N/A
ADDRESS:	2517 SE 21 ST, FORT LAUDERDALE, FL 33316
LEGAL DESCRIPTION:	LOT 18, BLOCK 1 IF "BREAKWATER", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 42, PAGE 19 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY).
ZONING DISTRICT:	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY
COMMISSION DISTRICT:	4
REQUESTING:	<u>Sec. 25-62. (b)(3) - Requirements for new development and site alterations.</u>

- Requesting a special exception, granting relief from the requirement to install sidewalk per Sec 25-62.

Please Note: As per Sec. 25-62. (b)(3) Sidewalks shall be constructed on all public streets abutting the property, except as provided herein:

Property owners may request relief from the provisions of this section by making an application to the board of adjustment. The property owner shall have the burden of demonstrating that a unique circumstance particular to the property at issue exists that would otherwise preclude the installation of a sidewalk in the specified location.

Christopher Murray, owner, described the request. He said there were four reasons for the request:

- The drainage system in the neighborhood was via swales and a sidewalk would affect drainage on other properties in the neighborhood.
- There were no other sidewalks in the neighborhood to which this could connect.
- The neighborhood was very quaint and adding sidewalks would detract from that.
- There were no existing safety issues with pedestrians due to the lack of sidewalks.

Mr. Spence read from the code section that specified how a property owner could seek to be exempted from the sidewalk requirement. They must demonstrate that a unique circumstance particular to the property exists that would otherwise preclude installation of a sidewalk in the specified location.

Chair Elfman opened the public hearing.

Art Bengochea, architect, said the code was changed to require sidewalks with new construction. Their plans had originally included a sidewalk but neighbors complained because it would only be on Mr. Murray's property. He said this would affect the character of the neighborhood, as well as drainage. Katherine Maus supported the variance request. She thought that there was a condition that allowed an exemption if 80% of the neighborhood supported the request. Harold Lovell stated there were no sidewalks in the neighborhood and they wished to keep it looking the same. William McClellan, Breakwater Surf Club board member, said 57 of 59 households did not want sidewalks. He stated the neighborhood was not designed for sidewalks and was walkable without them.

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. Spence stated the code change in 2022 to require sidewalks had three exceptions. The first was that if the sidewalks would be on a finger isle or dead-end street where

80% or more of the properties did not have sidewalks abutting the property. The second was if there was a neighborhood transportation plan, developed with Transportation and Mobility and approved by the City Commission clearly indicating that sidewalks were not preferred for the area. The third was relief on a case-by-case basis.

Mr. Stresau said the neighborhood also had a storm drain system to prevent flooding. He thought this entire development would be redeveloped with million dollar homes. He said the neighborhood would have sidewalks if the variance were denied. He felt they should have neighborhood walkability with sidewalks.

Mr. Meade noted the way the neighborhood was changing in regard to larger houses being built there.

Ms. Rathburn said she lived in a neighborhood that had some sidewalks and they did not want any more because it affected flooding and looked silly. She thought the applicant had made a sufficient argument that they were entitled to relief from the provision because of unique circumstances particular to the property. She said they should also give credence to what the neighbors wanted.

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

To approve the special exception because it meets the criteria. **Motion failed** 4-3 with Mr. Cooper, Mr. Meade and Mr. Stresau opposed.

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CASE:	PLN-BOA-24030005
OWNER:	FREEMAN, CHRISTOPHER; ABRAMOVICI, ADI
AGENT:	N/A
ADDRESS:	2616 SE 21 ST, FORT LAUDERDALE, FL 33316
LEGAL DESCRIPTION:	LOT 14, BLOCK 2 OF BREAKWATER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 42, PAGE 19, 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. 25-62. (b)(3) - Requirements for new development and site alterations.**

- Requesting a special exception, granting relief from the requirement to install sidewalk per Sec 25-62.

Please Note: As per Sec. 25-62. (b)(3) Sidewalks shall be constructed on all public streets abutting the property, except as provided herein:

Property owners may request relief from the provisions of this section by making an application to the board of adjustment. The property owner shall have the burden of demonstrating that a unique circumstance particular to the property at issue exists that would otherwise preclude the installation of a sidewalk in the specified location.

Christopher Freeman and Adi Abramovici, owners, described the request. Ms. Abramovici said neighbors had expressed concern about potential flooding if the sidewalk was installed. She noted the tripping hazard the sidewalk would present. Mr. Freeman said this was a dead-end street and 57 of 59 households supported their request.

Chair Elfman opened the public hearing.

Mr. McClellan indicated redevelopment was not inevitable; people were content to stay in these small homes.

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. Stresau reminded the neighbors that they could develop the transportation plan and petition the City Commission for the exemption.

Motion made by Mr. Wolfe, seconded by Mr. Stresau:
To approve the special exception because of the neighborhood’s safety concerns and their almost unanimity in opposing the requirement. **Motion failed** 4-3 with Mr. Meade, Mr. Stresau and Mr. Cooper opposed.

Communication to the City Commission Index
Mr. Meade asked staff to pass the petition regarding the sidewalks on to the City Commission.

Report and for the Good of the City

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Mr. Stresau recalled the Board had asked the Planning and Zoning Board to consider evaluating how grade was determined. He said staff had done a great job showing the existing code application and what the Planning Department was recommending: that the code be changed back to recognize natural grade as opposed to the grade FEMA required. The Planning and Zoning Board had turned this request down 8-0. Mr. Stresau was not aware the Planning and Zoning Board was going to discuss it or he would have attended that meeting.

Mr. Ford explained the reason staff proposed the code change was because the amount of fill that was going to be approved in new developments had been significantly reduced. The code had changed to allow no more than one foot of fill on site for grading purposes, so the exterior edges would be at natural grade.

Other Items and Board Discussion

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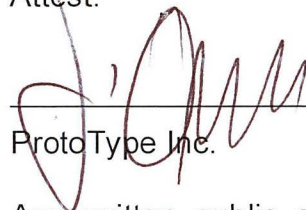
None

There being no further business to come before the Board, the meeting adjourned at 8:06 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.