



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**  
**May 8, 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	12	0
Caldwell Cooper	P	9	3
Milton Jones	P	11	0
Douglas Meade	P	10	2
Patricia Rathburn	P	12	0
Fred Stresau	P	2	0
Robert Wolfe, Vice Chair	A	10	2
Jason Hagopian [alternate]	A	7	2

**Staff**

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

**Communication to the City Commission**

None

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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>
1.	PLN-BOA- 24030001	Jakisha Wright	2	<u>2</u>
2.	PLN-BOA- 24030007	Ritos Development LP/ Rod A. Feiner, Esq. Communication to the City Commission For the Good of the City Other Items and Board Discussion	4	<u>3</u> <u>6</u> <u>6</u> <u>6</u>

**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 – March 13, 2024 and April 10, 2024**

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

To approve the Board’s April 10, 2024 minutes. **Motion** passed 6-0.

Mr. Stresau said he was not on the Board for the March 13, 2024 meeting, so he vote no on approval of those minutes.

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

To approve the Board’s March 13, 2024 minutes. **Motion** passed 5-1 with Mr. Stresau opposed.

**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**

<b>1.</b>	<a href="#">Index</a>
<b>CASE:</b>	<b>PLN-BOA-24030001</b>
<b>OWNER:</b>	WRIGHT, JAKISHA
<b>AGENT:</b>	N/A
<b>ADDRESS:</b>	610 NE 14 PL, FORT LAUDERDALE, FL 33304
<b>LEGAL DESCRIPTION:</b>	LOT 4, BLOCK 1, LAUDERDALE GARDENS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
<b>ZONING DISTRICT:</b>	RM-15 - RESIDENTIAL MULTIFAMILY LOW RISE/MEDIUM DENSITY
<b>COMMISSION DISTRICT:</b>	2
<b>REQUESTING:</b>	<b><u>Sec. 47-5.34 - Table of dimensional requirements for the RM-15 and RMs-15 districts. (Note A)</u></b>

- Requesting a variance from the minimum 5-foot side yard setback to be reduced to an existing side yard setback of 4.04 feet, a total variance request of 0.96 feet.

Jakisha Wright, owner, described the request. She said she needed to repair storm damage to her home which had been built in the setback.

Chair Elfman opened the public hearing.

Troy Liggett, president of the Middle River Terrace neighborhood association, said the board of the association had voted unanimously to support this request.

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. Wright confirmed that the repairs would return the home to its original condition. Mr. Stresau pointed out that the home next door to the east was built right to the property line.

Ms. Rathburn said per the variance criteria, special conditions and circumstances affect the property at issue which prevent the reasonable use of such property and that the unique hardship was not self-created by the applicant and she would therefore support the request. Mr. Meade thought moving the home in to meet the requirement would not make it unusable.

**Motion** made by Mr. Jones, seconded by Mr. Cooper:  
To approve the variance request because it meets the criteria. **Motion** passed 6-0.

2. Index

<b>CASE:</b>	<b>PLN-BOA-24030007</b>
<b>OWNER:</b>	RITOS DEVELOPMENT LP
<b>AGENT:</b>	ROD A. FEINER, ESQ.
<b>ADDRESS:</b>	695 SW 9 AVE, FORT LAUDERDALE, FL 33315
<b>LEGAL DESCRIPTION:</b>	THE SOUTH 67.55 FEET OF LOTS 9 AND 10. "NEW UTOPIA", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 21, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
<b>ZONING DISTRICT:</b>	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY
<b>COMMISSION DISTRICT:</b>	4
<b>REQUESTING:</b>	<u>Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district.</u>

- Requesting a variance from the minimum 15-foot rear yard setback to be reduced to 5 feet, a total variance request of 10 feet.

Ms. Crawford confirmed that a letter of objection had been received.

Rod Feiner, Esq., the owner's agent, described the request. He said they needed the variance to preserve a specimen Oak tree. He stated the tree had been confirmed as a specimen tree by a certified arborist and his reports were included in the backup. Chair Elfman opened the public hearing.

Brucie Cummings, neighbor, said other Oak trees on the site had been removed and she wondered why. She appreciated that they wanted to preserve this tree. James Dunmire, neighbor, said he opposed this and asked why there was a 15-foot setback. He thought approving this would set a terrible precedent. Edesio Biffoni, neighbor, said they could just build a smaller house and keep the tree.

Mr. Ford explained that the 15-foot setback was to provide separation between buildings and improve livability in a neighborhood.

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 referred to the City's new tree preservation code and this included having staff review adjusting setbacks to preserve existing trees. He felt this was exactly what they had been trying to get staff to do. He explained that building on a stem wall instead of adding fill to the site would protect the tree and satisfy FEMA requirements. He discussed how the total structure height was measured and noted this home would be 26' from the finished first floor and when the grade was taken into account it was more like 30 feet, impacting the adjacent property. Mr. Stresau asked Mr. Spence if the Board were to approve this request, could the owner remove the tree and increase the buildable area of the lot. Mr. Spence said if there was nothing in the motion to prevent that, the owner could. If the preservation of the tree was part of the Board's rationale for granting the variance, they should include that in the motion as a condition.

Mr. Meade asked why the setbacks did not change when the orientation changed and Mr. Ford said the owner indicated which was the front yard. Mr. Malik confirmed there could only be one front yard. Mr. Jones asked about the motion taking into account if the tree should die. Mr. Spence said they could not withdraw the variance if the tree died. Mr. Feiner said the applicant knowingly and voluntarily agreed to a condition that the structure would be built in the footprint on the site plan and if the tree died, they would not change the footprint.

Ms. Rathburn said she would be more inclined to support this if there were a deed restriction that the setback on the tree side would be restricted to today's 'site plan elevation and they could not rebuild in the space the tree occupied. Mr. Feiner agreed to this but said this could not be done in perpetuity or in a way that said they could never seek to modify it.

Tim Ritvo, developer, said the home was being built on a stem wall that was filled but the farther they kept away from the tree the better. Mr. Stresau wanted the owner to promise to replace the tree if it died. He said it was also possible to require the owner to post a bond for at least twice the \$18,000 at which the arborist had valued the tree. Mr. Feiner and Mr. Ritvo agreed and Mr. Feiner said the bond would remain in effect for one year after the Certificate of Occupancy was issued.

Mr. Meade said this was not fair to the neighbor who expected a certain setback. If someone moved to approve this, he wanted the motion to include the condition that no pavers would be installed over the tree's roots.

Roberto Gomez, general contractor, said this would be a 3,800 square-foot home. Mr. Feiner confirmed it was being built on speculation. Mr. Cooper was concerned about the neighbor's rights and did not see a hardship. Mr. Feiner said the tree was the hardship and they had not created it.

**Motion** made by Mr. Cooper, seconded by Mr. Jones to reopen the public hearing, **Motion** passed 6-0.

Mr. Dunmire said he favored saving the tree but the developer should also honor the code. Mr. Biffoni said the developer knew the dimensions of the lot and knew of the tree when he purchased the property. Ms. Cummings suggested requiring a step back on the second story on the west side.

Mr. Feiner said the house was only 40 feet wide so reducing it by five feet would have a significant impact. He stated they had originally thought they would remove the tree but staff had asked them to try to preserve it. He said a second floor step back would not work because the house was not wide enough.

Mr. Jones suggested they adhere to the setbacks and redesign the home. Mr. Feiner said a redesign would not work. He confirmed for Chair Elfman that if they did not receive the variance, they would take down the tree.

Mr. Stresau said what the applicant was proposing was exactly what the new tree preservation ordinance would like to see done. He noted that if this were an interior lot, the side setback would only be five feet but this was a corner lot so it had a 15-foot setback. He would like the height to be limited to 22 feet above FEMA required elevation on the west and north sides. Mr. Feiner stated the parapet was needed to screen the air conditioning equipment.

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 asked if the Board could make the variance effective upon the date of the recording of the agreement they had been discussing. Ms. Rathburn, Mr. Feiner and Mr. Spence discussed the terms of the agreement Mr. Feiner would draft: a restriction on ever building in the area where the tree was located [per Ms. Rathburn's drawing, in line with the pool deck, the stairs and two property lines], no pavers in the setback or over the tree roots; a bond for twice the value of the tree that would continue for one year after issuance of the Certificate of Occupancy.

Ms. Rathburn said she was basing her motion on Mr. Stresau's interpretation of the ordinance and acknowledging that the only way this tree would be saved was by granting the ordinance, which was a hardship.

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

To grant the variance, provided the effective date is the date of the recording of the agreement submitted by the applicant's counsel submitted to the City for approval that would specifically state the owner agreed as conditions that the document will run with the land, it would provide for a "no build zone" based on site plan 1.1 submitted to the City, on the north by the raised pool deck, on the west by the east line of the stairs, on the south by the property line and on the east by the property line. There would be no construction in this area whether the tree lived or died. The applicant would also post a bond for twice the value of the tree, which was valued at approximately \$18,000, on issuance of building permits and would run for a year after Certificate of Occupancy was issued, there would be no paved surfaces in the area of the variance. **Motion** failed 2-4 with Mr. Cooper, Mr. Jones, Mr. Meade and Chair Elfman opposed.

**Communication to the City Commission**

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None

**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 7:22 p.m.

Chair:



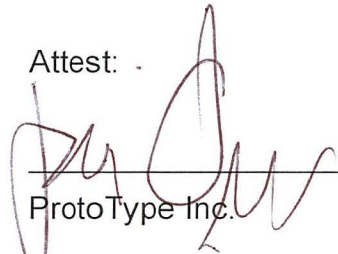
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Board of Adjustment

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Attest: .



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