



CITY OF FORT LAUDERDALE

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

Board Members	Attendance	Cumulative Attendance 6/2024 through 5/2025	
		Present	Absent
Howard Elfman, Chair	P	1	0
Caldwell Cooper	P	1	0
Milton Jones	P	1	0
Douglas Meade	P	1	0
Patricia Rathburn	P	1	0
Fred Stresau	P	1	0
Robert Wolfe, Vice Chair	P	1	0
Jason Hagopian [alternate]	P	1	0

Staff

Shaun Amaranani, Assistant City Attorney
 Burt Ford, Zoning Chief
 Karen Ceballo, Administrative Assistant
 Mohammed Malik, Zoning Administrator
 Chakila Crawford, Senior Administrative Assistant
 Mark Koenig, Landscape Architect
 J. Opperlee, Recording Secretary, Prototype Inc.

Communication to the City Commission

None

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	<u>Case Number</u>	<u>Owner/Agent</u>	<u>District</u>	<u>Page</u>
1.	PLN-BOA-24020001	Estate Manors Inc; Walters, Lawrence/ Graham Penn, Esq.	4	<u>11</u>
2.	PLN-BOA-24040001	Mario & Yelena Tacher	4	<u>3</u>
3.	PLN-BOA-24040002	Andrea Catherine Stevens	4	<u>6</u>
4.	PLN-BOA-24050001	David F MacNeil; David F MacNeil Trust/Stephanie Toothaker Esq.	4	<u>4</u>
5.	PLN-BOA-24050002	City of Fort Lauderdale/ Freddy Andres Argudo, Esq.	1	<u>2</u>
6.	PLN-BOA-	Christopher V Schirmer; Jaci Regan	4	<u>7</u>

	24050003	Mattocks		
7.	PLN-BOA-24050005	3290 Northeast 33 rd ST LLC; % Marilyn Leeds, Manager/ Lawrence Blacke, Esq.	1	<u>8</u>
8.	PLN-BOA-24050004	Coral Ridge Yacht Club Inc./Stephen Tilbrook	1	<u>10</u>
9.	PLN-BOA-24060001	William L & Dorothy H Catron	4	<u>11</u>
		Communication to the City Commission		<u>13</u>
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		Other Items and Board Discussion		<u>13</u>

I. Call to Order

The meeting was called to order at 6:04 p.m. Roll was called and a quorum was determined to be present.

II. Approval of Minutes – May 8, 2024

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

To approve the Board's May 8, 2024 minutes. **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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	CASE:	PLN-BOA-24050002
	OWNER:	CITY OF FORT LAUDERDALE
	AGENT:	FREDDY ANDRES ARGUDO, ESQ
	ADDRESS:	5900 HAWKINS ROAD, FORT LAUDERDALE, FL 33309
	LEGAL DESCRIPTION:	A PORTION PF TRACTS "B" AND "C", "PALM AIRE VILLAGE 4 TH SECTION", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 96, PAGE 35, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)
	ZONING DISTRICT:	CC - COMMERCE CENTER DISTRICT
	COMMISSION DISTRICT:	1

REQUESTING: Sec 47-21.13. B.1.a.- Landscape requirements for all zoned districts.

- Requesting a variance to reduce the minimum tree requirement of one (1) tree per 1,000 square feet of net lot area to one (1) tree per 2000 square feet of net lot area, a total variance request of 46 trees.

Breakdown: Total required 93,000 sf /1000= 93 trees
Total provided 93,000 sf/ 2000= 47 trees
Total Reduction = 46 trees

Janna Lhota, attorney, requested a deferral to August to meet with the nearby neighborhood on July 25.

Motion made by Mr. Stresau, seconded by Mr. Meade:
To defer the case to August. **Motion** passed 7-0.

Motion made by Mr. Meade, seconded by Mr. Stresau to move case 1 to be the last case heard. Motion passed 6-1 with Mr. Cooper opposed.

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CASE:	PLN-BOA- 24040001
OWNER:	TACHER, MARIO & YELENA
AGENT:	N/A
ADDRESS:	2436 CAT CAY LANE, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	LOT 6, BLOCK 3 OF "LAUDERDALE ISLES NO.2", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, AT PAGE 2, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)
ZONING DISTRICT:	RS-6.85A - IRREGULAR RESIDENTIAL
COMMISSION DISTRICT:	4
REQUESTING:	<u>Sec. 47-39. A.1.b.(3)(g) General provisions. - Yard encroachments.</u> Shed <ul style="list-style-type: none">• Requesting a variance from the minimum 10-foot required distance separation between an accessory building and a principal building to be reduced to a distance of 8.9 feet, a total variance reduction request of 1.1 feet.
	<u>Sec. 47-39. A.1.b.(3)(d) General provisions. - Yard encroachments.</u> Shed <ul style="list-style-type: none">• Requesting a variance from the minimum 5 feet rear yard setback requirement for accessory buildings to be reduced to 4.5 feet a total variance request of 0.5 feet.• Requesting a variance from the minimum 5 feet side yard setback requirement for accessory buildings to be reduced to 2.0 feet a total variance request of 3.0 feet.

Sec. 47-39. A.6.F. Dimensional requirements. - Side yards.

Carport

- Requesting a variance from the minimum 7.5 feet side yard setback to be reduced to 4.97 feet for an existing one-family dwelling on the north side yard a total reduction of 2.53 feet.

Mario Tacher, owner, described the request, their efforts to comply and the setback issues with the shed. He stated the carport enclosure permit had been issued by the City.

Chair Elfman opened the public hearing. Romi DiRoberto, neighbor, said the shed had no negative impact on the 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. Tacher clarified they needed three variances for the shed and one for the carport. They had enclosed one side of the carport and not increased the encroachment. He said when they bought the property, they had been told the shed was a “bonus room” but it could not be occupied so they were using it for storage only [and they were suing the seller]. Mr. Tacher showed photos of the shed’s interior on his phone and agreed to email the photos to the City. He stated the hardship was that they could not move the shed.

Motion made by Mr. Stresau, seconded by Mr. Meade:
To consider all of the requests at once. **Motion** passed 7-0.

Motion made by Ms. Rathburn, seconded by Mr. Wolfe:
To grant all four variance requests because they meet the criteria for a variance because of a unique and special hardship not created by the property owner. **Motion failed** 4-3 with Mr. Cooper, Mr. Jones and Mr. Meade opposed.

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CASE:	PLN-BOA-24050001
OWNER:	MACNEIL, DAVID F; DAVID F MACNEIL TR
AGENT:	STEPHANIE J. TOOTHAKER, ESQ
ADDRESS:	84 ISLA BAHIA DRIVE, FORT LAUDERDALE, FL 33316
LEGAL DESCRIPTION:	LOT 13, OF ISLA BAHIA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 47, PAGE 27, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)
ZONING DISTRICT:	RS-4.4 - RESIDENTIAL OF SINGLE FAMILY/LOW DENSITY
COMMISSION DISTRICT:	4

REQUESTING:

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

- A variance from the maximum 3-foot or one-third ($\frac{1}{3}$) of the required yard, whichever is less, for an unenclosed balcony encroachment into the required yard to allow an additional 0.8-foot encroachment for a total encroachment of 3.8 feet.

Sec 47-5.30- Table of dimensional requirements for the RS-4.4 district. (Note A).

- A variance from the 25-foot minimum rear yard requirements of Section 47-5.30 Table of Dimensional Requirements to allow a decrease of 3.8 feet for a proposed rear yard setback of 21.2 feet.

Stephanie Toothaker Esq., the owner's agent, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. She said she had letters of support from the neighbors. Ms. Toothaker stated variance criterion C applied: That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right.

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. Toothaker estimated the size of the encroachment as approximately two square feet.

Ms. Rathburn discussed the responses to the criteria

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

Ms. Rathburn said this was a "pretty big house" and the criterion was not related to using the balcony for "what *they* wanted to use it for." The balcony was perfectly usable as a balcony.

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;

The response was that the balcony's northwestern exposure created a special circumstance. She did not believe that the sun created a special circumstance. She pointed out that the balcony was designed to be a balcony and the current owners wanted to use it as something else. So this owner was causing this situation. She did not believe the request met the criteria.

Mr. Stresau asked about the support column and Ms. Toothaker said the plans showed the column that supports the balcony was not in the setback. Mr. Stresau thought the wall on top of the balcony could be moved back and not be in the setback.

Motion made by Ms. Rathburn, seconded by Mr. Wolfe:
To grant the variance request re: Sec 47-19.2. B to allow encroachment of an existing balcony 0.8 feet into the rear yard setback, even though it did not meet the criteria, but because it was a de minimis encroachment. **Motion** passed 7-0.

Motion made by Ms. Rathburn, seconded by Mr. Jones:
To deny the variance request re: Sec 47-5.30 - Table of dimensional requirements because it does not meet the criteria for a variance in that the property can certainly be reasonably used and the sun does not constitute a hardship. **Motion** failed 3-4 with Mr. Cooper, Mr. Meade, Mr. Wolfe and Chair Elfman opposed

Motion made by Mr. Cooper, seconded by Mr. Wolfe:
To approve the variance request re: Sec 47-5.30 - Table of dimensional requirements. Motion failed 3-4 with Mr. Jones, Mr. Meade, Ms. Rathburn and Mr. Stresau opposed.

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CASE:	PLN-BOA- 24040002
OWNER:	STEVENS, ANDREA CATHERINE
AGENT:	N/A
ADDRESS:	1329 SW 9 STREET, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	THE EAST ONE-HALF OF LOTS 6 AND 7, BLOCK 11, OF AMENDED PLAT OF RIVERSIDE ADDITION OF FORT LAUDERDALE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 13 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:	<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.

Catherine Stevens, owner, described the request. She stated they would need to remove three mature Oak trees to install the sidewalk. She added that 80% of the neighborhood did not have sidewalks and submitted photos of the neighborhood.

Chair Elfman opened the public hearing. Estelle Brennan, President of Riverside Park Residents Association, said the association board unanimously supported this request and had provided a letter of support. She stated the association had been working with Transportation and Mobility for seven years on a sidewalk plan for the Riverside Park 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.

Chair Elfman noted that requiring sidewalks was intended to start incorporating sidewalks in the neighborhood. He said this property had a blind spot for traffic due to vegetation and someone walking in the street could easily be struck.

Mr. Stresau said it would not be possible to install sidewalks here without removing trees. He said the code indicated sidewalks could be eliminated in dead end streets and some of these streets in this neighborhood “come pretty close to being dead end streets.” He acknowledged there were virtually no sidewalks in the neighborhood now.

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

To approve the Special Exception because the applicant has demonstrated that there are unique circumstances which would prohibit the installation of sidewalks without the removal of beautiful trees. **Motion** passed 7-0.

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CASE:	PLN-BOA-24050003
OWNER:	SCHIRMER, CHRISTOPHER V; MATTOCKS, JACI REGAN
AGENT:	N/A
ADDRESS:	1123 SW 5 PLACE, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	LOT 10 AND THE WEST ½ OF LOT 11, BLOCK 1, AMENDED PLAT OF RIVERSIDE ADDITION TO FT. LAUDERDALE, FLA. ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 13, 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 Schirmer, owner described the request. He said there was an electric pole that would need to be moved and noted there were sidewalks on the opposite side of the street and all around the park.

Chair Elfman opened the public hearing. Estelle Brennan, President of Riverside Park Neighborhood Association, provided a letter of support from the association and said their board had voted to support the request. She noted the park in Riverside Park had a large network of sidewalks. 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 said he had walked this neighborhood recently and seen kids sitting in the middle of the street waiting to board a school bus. He felt there should be a sidewalk to make the kids safer.

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

To grant the Special Exception, allowing relief from the requirement to install sidewalk due to the fact that the applicant had demonstrated that the Park sidewalks and electric poles in the area would prohibit useful consideration for a sidewalk. **Motion** passed 5-2 with Mr. Cooper and Mr. Meade opposed.

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CASE:	PLN-BOA- 24050005
OWNER:	3290 NORTHEAST 33RD ST LLC; % MARILYN LEEDS MANAGER
AGENT:	LAWRENCE BLACKE, ESQ
ADDRESS:	3298 NE 33 STREET, FORT LAUDERDALE, FL 33308
LEGAL DESCRIPTION:	LOT 7, IN BLOCK 5 OF GALT OCEAN MILE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)

ZONING DISTRICT: CB - COMMUNITY BUSINESS

COMMISSION DISTRICT: 1

:

Sec. 5-26. - Distances between establishments.

- Requesting a special exception from the required distance separation of three hundred (300) feet between establishments selling alcoholic beverages. The location of the proposed establishment is ninety-one (91) feet from one establishment licensed to sell alcoholic beverages, one-hundred seventy-three (173) feet from another establishment and two-hundred twenty-one (221) feet from another establishment licensed to sell alcoholic beverages. Requesting a total distance of separation reduction of two-hundred nine (209) feet, one-hundred twenty-seven (127) feet, and seventy-nine (79) feet, respectfully.

Lawrence Blacke Esq., the owner's agent, described the request. He described the neighborhood and said this end was a quiet area. He said they had received letters of support from two of the three alcohol-serving establishments within 300 feet.

Chair Elfman opened the public hearing. Tim Olenn Esq., a neighboring bar owner's attorney, said they had not received notice of this hearing. He argued that this use would not be compatible because existing businesses benefitted from the code restricting the number of establishments selling alcoholic beverages. This use would take customers away from the other businesses in the area. Mr. Olenn said his client's bar sold hard liquor as well as beer and wine. 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. Blacke said the poolroom and bar were very small: nine billiard tables and eight bar seats.

Mr. Wolfe thought this business would do well and would not detract from other businesses.

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

To grant the Special Exception regarding distances between establishments. **Motion** passed 7-0.

The Board took a brief break.

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CASE:	PLN-BOA- 24050004
OWNER:	CORAL RIDGE YACHT CLUB INC
AGENT:	STEPHEN K. TILBROOK, ESQ
ADDRESS:	2800 YACHT CLUB BLVD, FORT LAUDERDALE, FL 33304

LEGAL DESCRIPTION: PARCEL I: YACHT CLUB SITE OF RESUBDIVISION OF BLOCK 6 PORTIONS OF BLOCK 5 AND 4 OF CORAL RIDGE SOUTH ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED. TOGETHER WITH: A PORTION OF YACHT CLUB BOULEVARD CUL-DE-SAC, ADJACENT TO YACHT CLUB SITE, RESUBDIVISION OF BLOCK 8 AND PORTIONS OF BLOCKS 5 AND 4 OF CORAL RIDGE SOUTH ADDITION. PARCEL "C": A PARCEL OF LAND BEING A PORTION OF "CORAL BAY" AS SHOWN ON THE PLAT OF "CORAL RIDGE SOUTH ADDITION". ACCORDING TO THE PLAT THEREOF RECORDED. PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)

ZONING DISTRICT: P - PARKS RECREATION AND OPEN SPACE

COMMISSION DISTRICT: 1

REQUESTING: Sec 47-8.30 Table of dimensional requirements. (Note A)

Requesting a variance from the minimum 25 feet rear yard setback requirement to be reduced to 5 feet to install a retractable awning extending 20 feet into the required 25-foot rear yard setback, a total variance reduction request of 20 feet.

Stephen Tilbrook Esq., the owner's agent, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. He pointed out there was a large amount of support for this in the community.

Ms. Rathburn remarked on the comprehensiveness of Mr. Tilbrook's presentation.

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. Tilbrook said they had chosen a retractable awning because it was the least obtrusive way to provide shade and was more affordable than a permanent awning. He confirmed for Ms. Rathburn that this would not be enclosed in the future.

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

To approve the variance request. **Motion** passed 5-2 with Mr. Meade and Mr. Stresau opposed

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CASE: PLN-BOA- 24060001
OWNER: CATRON, WILLIAM L & DOROTHY H
AGENT: N/A
ADDRESS: 1630 SOUTH EAST 10 STREET, FORT LAUDERDALE, FL 33316

LEGAL DESCRIPTION: THE EAST ONE-HALF OF LOT 15 AND LOT 16 IN BLOCK 14 OF RIO VISTA ISLES UNIT 5, ACCORDING TO THE PLAT THEREOF, AS REORDERED IN PLAT BOOK 8, PAGE 7, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. (SEE SURVEY)

ZONING DISTRICT: RS-4.4 - RESIDENTIAL OF SINGLE FAMILY/LOW DENSITY

COMMISSION DISTRICT: 4

REQUESTING: Sec 47-5.30- Table of dimensional requirements for the RS-4.4 district. (Note A)

Requesting a variance to reduce the side yard setback to 9 foot 10 inches, whereas the code requires a minimum side yard setback of 10 foot 0 inches, a total variance reduction request of 2 inches.

William Catron, owner, described the request. He explained that the home had passed all inspections when it was built after purchasing the property in 1989. A recent survey had revealed that the home was twisted and the southwest corner was encroaching into the setback. He stated he had a letter of support from the neighbor most affected by the encroachment.

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. Malik noted that City staff could not approve even ½" encroachments; they must be approved by the Board.

Ms. Rathburn said this was exactly what variances were designed to do. This was not self-created and was a hardship.

Motion made by Ms. Rathburn, seconded by Mr. Wolfe:
To approve the variance. **Motion** passed 7-0.

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CASE: PLN-BOA-24020001

OWNER: ESTATE MANORS INC; WALTERS, LAWRENCE

AGENT: GRAHAM PENN, ESQ

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:

Request for Rehearing of Denial of Case PLN-BOA-24020001, pursuant to ULDR Sec. 47-24.12. A.7 regarding the following variance requests:

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

- 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.

Mr. Amaranani said there were two reasons to grant a re-hearing: to correct an error or to consider new evidence or information that that they had not considered when the request was denied, such evidence or information having been neither known to the applicant nor discoverable or obtainable through reasonable diligence on the part of the applicant prior to the hearing at which the application was denied.

Graham Penn Esq., the owner's agent, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. Mr. Penn said the main point he was bringing up in the request for a rehearing was he thought it was unclear that the Board had the "full picture of the permitting history and knew that this issue had been in place from the very outset and had been approved by Zoning."

Mr. Cooper recalled that the shape of the awning had changed and that a support column, not just the awning, was encroaching. Mr. Penn confirmed that the support columns had always been encroaching as well. He said the issue existed from the beginning.

Mr. Jones thought that anything the Board or Mr. Penn said "could be used against us" and requested Mr. Amaranani's opinion. Mr. Amaranani said the Board should consider Mr. Penn's evidence and determine if a rehearing was necessary to correct an error or to consider new evidence or information as he had indicated earlier.

Mr. Stresau read from the Board's April 10 minutes:

"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.”

Mr. Penn noted the original, smaller canopy would also have needed a variance. Mr. Stresau said the code made it clear that it was the architect’s responsibility. He said the Board had not made a mistake. Ms. Rathburn did not think the Board had made a mistake but she thought Mr. Penn was presenting new information, i.e., that the previous canopy had the same encroachment issue but had been approved.

Mr. Stresau asked Mr. Penn if he wished to cover the other four items to complete his objections as to whether or not the Board had made a mistake and Mr. Penn stated, “I do not think I need further discussion.”

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

To set the case for a rehearing based on new information being provided. **Motion** failed 1-6 with only Ms. Rathburn voting in favor.

Communication to the City Commission

None

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Report and for the Good of the City

Elect Chair and Vice Chair

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Motion made by Mr. Wolfe, seconded by Mr. Stresau, to elect Mr. Elfman Chair. In a voice vote, motion passed unanimously.

Motion made by Mr. Jones, seconded by Mr. Meade, to elect Mr. Wolfe Vice Chair. In a voice vote, motion passed unanimously.

Other Items and Board Discussion

Mr. Jones wondered how they would deal with the new technology that was much more accurate than old technology.

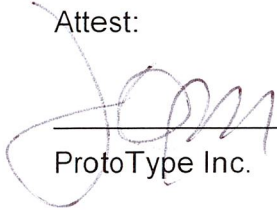
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There being no further business to come before the Board, the meeting adjourned at 8:45 p.m.

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.