



**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
APRIL 10, 2019 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

CITY OF FORT LAUDERDALE

Board Members	Attendance	Cumulative Attendance 6/2018 through 5/2019	
		Present	Absent
Douglas Reynolds, Chair	P	9	0
Howard Nelson, Vice Chair	P	8	1
Eugenia Ellis	P	8	1
Blaise McGinley	P	8	1
Patrick McTigue	P	8	1
S. Carey Villeneuve	P	7	2
Chadwick Maxey	P	7	2
Alternates			
Chip Falkanger	P	7	1
Shelley Eichner	P	2	0
Tim Bascombe	A	0	1

Staff

D Wayne Spence, Assistant City Attorney
 Mohammed Malik, Zoning Administrator
 Burt Ford, Zoning Chief
 Anthony Fajardo, Director, Department of Sustainable Development
 Chakila Crawford-Williams, Administrative Assistant
 Nadia Martin, Clerk III
 Jamie Opperee, Prototype, Inc.

Communication to the City Commission

None

Purpose: Section 47-33.1.

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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	<u>Case</u>		<u>District</u>	<u>Page</u>
	<u>Number</u>	<u>Owner/Agent</u>		
1.	B19-006	Ashita Homestead LLC / Deena Gray	2	<u>5</u>
2.	B19-008	2980 Investment LLC / Jason Crush	1	<u>3</u>
3.	B19-009	1031 Seminole Drive LLC / Andrew J. Schein	1	<u>4</u>
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		Other Items and Board Discussion		<u>10</u>

Board members disclosed communications they had and site visits made regarding items on the agenda.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

I. Call to Order

The meeting was called to order at 6:30 p.m. Roll was called and a quorum determined to be present.

II. Approval of Minutes – March 2019

Motion made by Mr. Nelson, seconded by Ms. Ellis to approve the Board's March 2019 minutes. In a voice vote, motion passed unanimously.

Motion made by Mr. Nelson, seconded by Ms. Ellis, to hear items in the following order: Item 2, Item 3, Item 1. In a voice vote, motion passed unanimously.

Mr. Spence said they had received two motions to intervene for Case B19-003, Liberman / Mavon. He advised the Board to treat the motions as a request to reconsider. Mr. Spence stated there was no legal basis under these circumstances that would provide for a motion for re-hearing or a motion to supplement the record.

No one from the prevailing side of the vote on the case was willing to make a motion to reconsider.

III. Public Sign-In / Swearing-In

Anyone planning to testify was sworn in.

IV. Agenda Items

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CASE: B19008

OWNER: 2980 Investment LLC

AGENT: Jason Crush, Crush Law, P.A.

ADDRESS: 2980 N. Federal Hwy

LEGAL DESCRIPTION: CORAL RIDGE LZB 183-77 B PARCEL A,5 FT ALLEY R/W ADJ TO SAID PARCEL A TOG WITH POR 15 FT VAC'D ALLEY ADJ TO LOT 4,5 BLK 66 OF CORAL RIDGE GALT ADD NO 1 31-37 B PER ORD NO. C-17-33 INSTR# 114703487

ZONING DISTRICT: B-1

COMMISSION DISTRICT: 1

REQUESTING: Section 5-27 (a) (Distance of establishments from a church or school).
Requesting a special exception to allow the sale of alcohol at a distance of 412 feet from a church, where the Code of Ordinances requires a minimum distance of 500 feet separating establishments that sell alcoholic or intoxicating beverages from existing churches. This special exception results in a reduction of 88 feet from the required 500 feet.

Mr. Maxey recused himself from this case, citing a conflict, and Ms. Eichner took his place on the dais.

Jason Crush, attorney, invited questions.

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

Motion made by Mr. Nelson, seconded by Ms. Ellis to approve the special exception. In a roll call vote, motion passed 7-0 with Mr. Maxey abstaining.

Mr. Maxey returned to the dais and Ms. Eichner stepped down.

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CASE: B19009

OWNER: 1031 Seminole Drive LLC

AGENT: Andrew J. Schein, Esq./ Lochrie & Chakas, P.A.

ADDRESS: 1031 Seminole Drive

LEGAL DESCRIPTION: BAY PARK AMEN 39-47 B POR OF E 300 FT OF TR B DESC AS: BEG AT MOST E, NE COR OF SAID TR B, S 152.40, W 300, N 174.63, E 274.76 TO P/C, ELY THRU SLY ARC DIST 39.52 TO P/T & POB

ZONING DISTRICT: B-1

COMMISSION DISTRICT: 1

REQUESTING: Sec. 47-22.3.M. - General regulations.
Requesting a variance to allow a Projecting sign to extend a total of six (6) feet six (6) inches from the wall on which the sign is to be placed whereas the code requires a maximum distance of three (3) feet. This is an increase of three (3) foot six (6) inches. Also as per the code all projecting signs shall be installed or erected in such a manner that there shall be no visible support structures such as angle irons, guy wires or braces, the proposed sign has visible support structures as per plans sheet DWG 2.0

Andrew Schein, attorney, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. He showed renderings of the proposed sign and support structures.

Mr. Nelson asked if the applicant would agree to forego the right to the three allowed wall signs. Mr. Schein said they would forego one but he was unsure about the other two. Mr. Villeneuve said the applicant's giving up the other signs was what had made him support the request. Mr. Schein conferred with the applicant and informed the Board that his client would be willing to forego two wall signs and reserve the right to one.

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

Motion made by Mr. Nelson, seconded by Mr. McGinley to approve the variance as requested with the addition of the proffer that one of the three wall signs would be foregone by the applicant, leaving the applicant the opportunity for one size-conforming wall sign in the future. In a roll call vote, motion passed 7-0.

CASE: B19006

OWNER: Ashita Homestead LLC

AGENT: Deena Gray, Esq.

ADDRESS: 323 Mola Avenue

LEGAL DESCRIPTION: VENICE 6-4 B STRIP OF LAND LYING S & SE OF LOT 18 BLK 2 AS DESC IN OR 2763/948 LESS PT DESC IN OR 2874/206, THAT PT OF LOT 18 AS DESC IN OR 2873/567, THAT PT OF STRIP OF LAND LYING SLY OF LOT 18 BLK 2 AS DESC IN OR 2971 PG 903 & OR 3525 PG 95

ZONING DISTRICT: RS-8

COMMISSION DISTRICT: 2

Sec. 47-5.31 – Table of Dimensional Requirements –RS-8
Requesting a Variance for the following :

- 1.) To allow a rear yard (North) setback at a distance of 5 feet from the property line whereas the code requires a 15-foot setback, for a total reduction of 10 feet.
- 2.) To allow a side yard (West Side) setback at a distance of 5 feet from the property line whereas the code requires a 25-foot setback, abutting a waterway, for a total reduction of 20 feet.
- 3.) To allow a side yard (East Side) setback at a distance of 5 feet from the property line whereas the code requires a 25-foot setback, abutting a waterway, for a total reduction of 20 feet.
- 4.) To exempt the maximum 22 feet height requirement within the 25 feet required side yard (East and West) abutting a waterway.
- 5.) To allow a floor area ratio of 0.88 whereas the code maximum allowed is 0.75 and increase of 0.13

REQUESTING: Sec. 47-19.2.A.1 Accessory buildings, structures and equipment, general.
To allow an accessory dwelling of 1401 square feet whereas the code allows a maximum of 600 square feet an increase of 801 square feet.

Sec. 47-19.2.A.2 Accessory buildings, structures and equipment, general.
To allow an accessory dwelling consisting of one (1) bedroom, one (1) bath and Living space to include 2 balconies as per plans, whereas the code allows one (1) bedroom, one (1) bath.

Sec. 47-19.2.A.5 Accessory buildings, structures and equipment,

general.

To allow an accessory buildings on a 6,510 square foot lot whereas the code requires a 10,890 square foot lot a total reduction of 4,380 square feet.

Mr. McTigue recused himself from this case, citing the possibility of a perceived conflict and Ms. Eichner took his place on the dais.

Deena Gray, attorney for Sammy Virani, the applicant, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Ms. Gray stated the requests met the criteria. She informed the Board that they had met with neighbors and representatives of the nearby condominium association, who were concerned about street flooding. Mr. Virani had agreed to improve the flooding in front of this property and participate in any public/private project undertaken to address drainage issues on the street. He would also allow FPL to site a transformer on his property.

Mr. Nelson wondered how this lot had become a lot of record, considering its size and shape. Ms. Gray said this was not the original platted lot and she could not determine when it had been subdivided.

Mr. Mohammed said in 1964 a variance was granted on the property for a pool, a fence and a wall. Ms. Gray said in 1964 a variance was also granted for a carport.

Mr. Nelson stated the applicant was requesting a 60% variance for the rear yard and 80% for each of the side yards and wondered if a smaller structure could be built that would require less of a variance. Architect Peter Synoyannis stated he had designed the structure per Mr. Virani's requirements.

Mr. Synoyannis said the main structure was 3,300 square feet and the accessory structure was 1,401 square feet. Ms. Eichner asked if a kitchen was needed for an accessory dwelling unit to qualify as a "granny flat" and Mr. Malik said this was optional.

Mr. Villeneuve wondered if Mr. Virani could work with the City to redirect Mola Avenue (which was an easement) to the east. Ms. Gray said there had been a determination that Mola Avenue was an easement and the plat said the easement was dedicated for perpetual public use. Therefore, if they wanted to change the road, every one on the island residents would need to agree.

Chair Reynolds opened the public hearing.

Andrew Mychalowych, attorney for Mr. Clapper, the property owner to the south, stated Mr. Clapper had submitted objections and he asked that those objections and their exhibits be admitted into the record. Chair Reynolds admitted them.

Mr. Mychalowych said a tenet of the variance code was that a variance could not be requested for something that was self-created or created by a predecessor, and that was exactly the case here. This lot had formerly been part of the 319 Mola lot to the north. In 1964, the City had granted a variance for an accessory building and pool to be built. Sometime later, the property had been split, creating this small parcel. Mr. Mychalowych believed the variance should not be considered because the issue on the property was self-created by a predecessor.

Mr. Mychalowych noted the history of code enforcement issues on the property: enclosing the carport without a permit, installing a fence without a permit and “elongation” of both lots. He stated there was also a dock on the property that was illegal and had been cited by code enforcement.

Mr. Mychalowych said the variances requested were not the minimum reasonable.

Mr. Mychalowych agreed that it had been determined that based the dedication in the early 1920s, Mola Avenue was an easement dedicated to the public use and any change would require agreement by all residents who used it. His client would not agree to this. Mr. Mychalowych said a three-story structure would also defy the 22-foot height restriction in this area.

Mr. Mychalowych said this was an extreme request and felt it would set a precedent for other owners in the area to subdivide their own lots. He stated this structure was very out of character with the neighborhood. He added that Mr. Virani had purchased the property in 2012 aware of the physical condition of the lot.

Mr. Maxey noted that Mr. Mychalowych’s clients had a similar situation on their lot and had not needed to request a variance when they built on it.

Mr. Villeneuve did not feel the variance for the Suspira canal setback would harm any other property in the area and Mr. Mychalowych said it would harm them by interfering with other properties’ water views. When his clients built on their property, they had the architect design the building to minimize impacts on neighbors.

Tom Godart, president of Las Olas Homeowners Association, believed everyone should have the right to use his/her property. He said he and other neighbors had recently met with Mr. Virani to discuss concerns and he had agreed to the following if granted the variances he was requesting:

- Remove the accessory building;
- Forego building on the east side of the property;
- Participate in remediating the flooding issue on Mola Ave.;
- Improve the land and drainage on his property;
- Locate a transformer on the east side property for the underground utilities.

Mr. Godart said he was representing himself only.

George Galuzzo, neighbor, said Mr. Virani had asked his opinion and said if he objected, Mr. Virani would not proceed. He said whatever Mr. Virani built there would be an improvement. He explained that this had been the Jelks estate and Mola Ave. was the driveway. Mr. Galuzzo said he did not object to Mr. Virani's plans.

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

Mr. Nelson asked Ms. Gray about the agreement Mr. Godart discussed. Ms. Gray conferred with her client and then informed the Board that Mr. Virani agreed to eliminate the accessory structure on the east side of the property. That would reduce the number of variances requested to three.

Mr. Nelson remarked that this was an impossible site to build on and asked Mr. Synoyannis if the design could be altered so the variance could be the minimum needed. Mr. Synoyannis believed they could work on the waterside setback.

Ms. Gray said Mr. Virani would agree to condition the variances on the items Mr. Godart discussed. Mr. Nelson suggested Ms. Gray withdraw the variance requests and structures for the east property so an owner could request some building on that lot in the future.

Ms. Ellis asked if Mr. Virani would consider a height reduction to two stories. Ms. Gray said this would be challenging because of how narrow the building was.

The Board took a brief break.

Mr. Nelson had asked staff to look at code provisions when the lot was split. Mr. Fajardo said they did not know what the previous zoning district was; it could have been R2 or R4. R4 had side yard setback requirements of eight feet if the lot frontage was less than 50 feet and 10 feet if the frontage was over 50 feet. R2 had side yard setback requirements of five feet if the lot frontage was less than 50 feet and 10 feet if the frontage was more than 50 feet.

Ms. Gray wanted to ensure that the letters of support were included in the record.

Ms. Gray said if the variance were approved, the existing small structure would be demolished. Regarding the code violations cited by Mr. Mychalowych, Ms. Gray stated all code enforcement issues had been closed.

Regarding the minimum variance, Ms. Gray stated her client would eliminate the accessory structure on the east side so they would only request three variances.

Mr. Fajardo informed the Board that there was a current code enforcement case regarding the vessel docked at the property. This case had been filed earlier that day.

Mr. Mychalowych said the dock on the west side had never been permitted and was a source of flooding.

Mr. Fajardo confirmed that the variance requests related to the structure only, not the vessel. He stated the vessel must conform to projected side yard setbacks without any reduction. Mr. Spence agreed that the setbacks were still enforced regarding the vessel.

Motion made by Mr. Nelson, seconded by Ms. Ellis, to approve the following variances:

- 1.) To allow a rear yard (North) setback at a distance of 5 feet from the property line whereas the code requires a 15-foot setback, for a total reduction of 10 feet.
- 2.) To allow a side yard (West Side) setback at a distance of 5 feet from the property line whereas the code requires a 25-foot setback, abutting a waterway, for a total reduction of 20 feet.
- 4.) To exempt the maximum 22 feet height requirement within the 25 feet required side yard (East and West) abutting a waterway to allow a structure this is 33 feet tall at its maximum

Finding that a hardship does exist based on the configuration of the property and the original setbacks required at the time that this lot was created that these are the minimum setbacks conditioned upon the following, which had been proffered by the applicant's attorney:

1. The applicant will fund his portion for the public/private partnership to raise Mola Avenue;
2. The applicant will execute the City and FPL's easement agreement to allow transformers to be placed on the southern end of the east property;
3. The applicant will improve the land and drainage in front of the east seawall to mitigate groundwater flooding as determined by the City
4. Prior to seeking a building permit for any structure on either side of the property, the applicant will clear up any existing code enforcement violations, including the one filed earlier that day.

Ms. Ellis asked if the applicant would consider stepping back the third floor from the second floor and Mr. Synoyannis said he had spoken with his client and he would not agree.

In a roll call vote, **motion passed** 5-2 with Ms. Ellis and Ms. Eichner opposed.

Mr. Mychalowych said he intended to appeal and asked the Board to consider staying their order. Mr. Spence pointed out that if the order were stayed, there would be no basis for an appeal.

Communication to the City Commission

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None

Report and for the Good of the City

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None

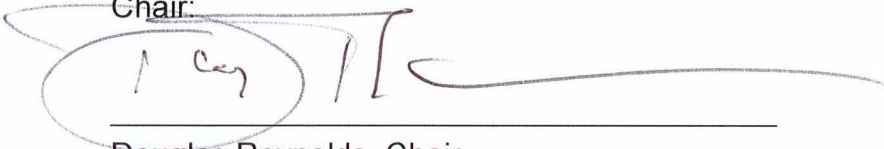
Other Items and Board Discussion

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None

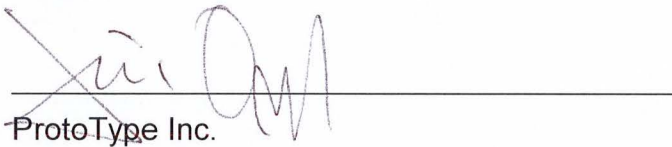
There being no further business to come before the Board, the meeting adjourned at 8:49 pm.

Chair:

A handwritten signature in black ink, appearing to read "D Reynolds", is written over a horizontal line. The signature is enclosed in a hand-drawn oval.

Douglas Reynolds, Chair

Attest:

A handwritten signature in black ink, appearing to read "ProtoType Inc.", is written over a horizontal line. The signature is enclosed in a hand-drawn oval.

ProtoType Inc.

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