



**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
DECEMBER 9, 2020 – 6:30 P.M.**

**CITY OF FORT LAUDERDALE**

<b>Board Members</b>	<b>Attendance</b>	<b>Cumulative Attendance 6/2020 through 5/2021</b>	
		<b>Present</b>	<b>Absent</b>
Howard Nelson, Chair	A	3	1
Patrick McTigue, Vice Chair	P	4	0
Eugenia Ellis	P	3	1
Chadwick Maxey	P	4	0
Blaise McGinley	P	4	0
Douglas Reynolds	P	4	0
S. Carey Villeneuve	P	4	0
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<b>Alternates</b>			
Chip Falkanger	P	2	2
Shelley Eichner	P	4	0
Michael Lambrechts	P	4	0

**Staff**

D' Wayne Spence, Assistant City Attorney  
Burt Ford, Zoning Chief  
Nadia Martin, Administrative Assistant  
Mohammed Malik, Zoning Administrator  
Brigitte Chiappetta, Recording Secretary, 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.

<u>Index</u>	<u>Case Number</u>	<u>Owner/Agent</u>	<u>District</u>	<u>Page</u>
1.	PLN-BOA-20030003	Daphne and Gerard D'Offay Request for Rehearing	4	<u>2</u>
2.	PLN-BOA-20090005	Lennar Homes, LLC/ Deena Gray, Esq.	4	<u>3</u>
3.	PLN-BOA-20110001	John and Nicole Beach	2	<u>6</u>
4.	PLN-BOA-20110003	Ruach Inc./Crush Law	1	<u>7</u>
		Communication to the City Commission For the Good of the City Other Items and Board Discussion		<u>9</u> <u>9</u> <u>9</u>

**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 – November 2020**

**Motion** made by Mr. McGinley, seconded by Mr. Maxey to approve the Board's November 2020 minutes. In a voice vote, motion passed unanimously.

**III. Public Sign-In / Swearing-In**

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

During each item, Board members disclosed communications they had and site visits made.

**IV. Agenda Items**

1.	<u>Index</u>
<b>CASE:</b>	PLN-BOA-20030003
<b>OWNER:</b>	D'OFFAY, DAPHNE C & GERARD M
<b>AGENT:</b>	GERARD M. D'OFFAY
<b>ADDRESS:</b>	2730 SW 19 STREET, FORT LAUDERDALE, FL., 33312

**LEGAL DESCRIPTION:** BEL-TER 42-48 B LOT 28  
**ZONING DISTRICT:** RS-8  
**COMMISSION DISTRICT:** 4  
**REQUESTING:** Request for Rehearing of Final Order/Case Number PLN-BOA-20030003.  
Rehearing pursuant to ULDR Sec. 47-24.12.A.7 on a denial of a variance from the Unified Land Development Regulations (“ULDR”).

**Note:** This case was denied by the board at its September 9, 2020 meeting. This request for rehearing was deferred to the December 9, 2020 meeting at the November 19, 2020 meeting.

Stephanie Toothaker, attorney, said there had been technical difficulties at the previous hearing and she believed certain parts of the applicants’ presentation had not been heard. She felt this “new evidence or information” met the criteria for a re-hearing.

Mr. Villeneuve felt this was a fair request.

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

Ms. Eichner voted in Chair Nelson’s absence.

**Motion** made by Mr. Villeneuve, seconded by Ms. Ellis, to approve the request for a re-hearing. In a roll call vote, motion passed 7-0 with the following in favor: Ms. Ellis, Mr. Villeneuve; Mr. Reynolds, Mr. McGinley, Mr. Maxey, Ms. Eichner, Vice Mayor McTigue.

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**CASE:** PLN-BOA-20090005  
**OWNER:** LENNAR HOMES, LLC  
**AGENT:** GREENSPOON MARDER LLP/DEENA GRAY, ESQ.  
**ADDRESS:** 1901 SW 5 Place; SW 5 ST; 460 SW 20 AVE; 506 SW 20 AVE; 502 SW 20 AVE, FORT LAUDERDALE, FL. 33312  
**LEGAL DESCRIPTION:** RIVERSIDE NO 2 1-104 D LOT 4 LESS N 150,5 LESS N 150 BLK E; RIVERSIDE NO 2 1-104 D LOT 4 LESS N 150,5

LESS N 150 BLK E; RIVERSIDE NO 2 1-104 D N 150 OF LOTS 6,7,8 & N 150 OF THAT PT LOT 9 LYING E OF PAVED RD BLK E; RIVERSIDE NO 2 1-104 D LOT 6 TO 8,S 70 OF N 360,9 S 70 OF N 360 LYING E OF PAVED RD BLK E; RIVERSIDE PARK TOWNHOUSE AND VILLAS 141-43 B PARCEL 4

**ZONING DISTRICT:**  
**COMMISSION DISTRICT:**  
**REQUESTING:**

RM-15

4

**Sec. 47-19.5. B. – Fences, walls and hedges**

1. Requesting a variance to allow the combination of a permitted retaining wall of varying height, along the east side, of three foot eight inches(3'8") to four foot seven inches(4'7") with a five(5) foot tall aluminum fence installed atop the wall with a total combined wall/fence height of eight foot eight inches(8'8") to nine foot seven inches(9'7") with a varying increase in total height above the permitted six foot six inch(6'6") between two foot two inches(2'2") to three foot one inch(3'1"). Along the north property line the permitted retaining wall ranges from four foot eight inches(4'8") to six foot one inch(6'1") with a six(6) foot wood fence installed atop the wall with a total combined wall/fence height varying from ten foot eight inches(10'8") to twelve foot one inch(12'1"), with a varying increase in total height above the permitted six foot six inch(6'6") between four foot two inches(4'2") to five foot seven inches(5'7").

Mr. Villeneuve recused himself from this Item because his law firm represented Lennar Homes in certain matters.

Ms. Eichner participated in the vote in Chair Nelson's absence and Mr. Lambrechts participated for Mr. Villeneuve, who had recused himself.

Dennis Mele, attorney, said the property elevation must be raised approximately three feet above nearby properties to meet current Broward County and the South Florida Water Management District (SFWMD) storm water retention requirements. When the neighbors saw that only a three-foot fence would be built on top of a three-foot retaining wall, they asked for a taller fence to provide additional privacy.

Deena Gray, attorney, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. She noted that the code allowed a six-foot six-inch fence but staff explained that fences were measured from the base of any retaining wall. This was why a variance was needed.

Ms. Gray stated Beth Arnold had sent a letter of support. Jessica Rodriguez and her husband supported the request as well and said they felt denying it would be an undue hardship to them because it would deny them security and safety.

Vice Chair McTigue opened the public hearing.

Ann Wiley, Riverside Park resident, said the Riverside Park Resident Association was unanimously opposed to the request for the height variance on the south and west sides of the property. She noted that the fences on the east and north side of the property had already been built. Ms. Wiley said their board felt that erecting this wall/fence would “feel unnatural, unfairly imposing and segregating to the rest of our neighborhood” and Lennar should try to become part of the neighborhood instead of trying to block it out. They also did not want to set a precedent that this was acceptable or safe. She pointed out that plants could be used for additional privacy. Ms. Wiley did not blame the Oak Hammocks neighborhood for wanting a fence because they previously had a view of an old growth forest that Lennar had clear cut for this development.

Mr. Mele said all elevations on the property had been raised pursuant to the requirements of the surface water management permit. Ms. Gray stated the fence/wall height varied inside and outside the property because of this interior elevation. Mr. McTigue noted the code specified that the height was measured from outside the fence, or the “adjacent grade level.”

Mr. Spence felt the confusion was regarding the term “meet the code” because the measurement was taken from the base of the retaining wall, not the top of it.

Mr. Mele clarified that they had applied for this variance because the Oak Hammocks neighborhood had asked them to.

Ms. Wiley informed Ms. Ellis that the Riverside Park Resident Association Board had voted unanimously to oppose this; the entire membership had not voted. Ms. Wiley reiterated that they objected to the additional height on the west and south sides of the property only.

Ms. Gray referred to the plan and pointed out where the additional height was being requested. It was only the section of fence on the south side of the property. Mr. Mele stated along SW 20 Avenue, they were installing a three-foot retaining wall with a five-

foot decorative aluminum picket fence on top and they would add hedges. Ms. Gray showed the decorative fence to Ms. Wiley.

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

Mr. Mele agreed to reduce the height of the fence on the south side of the property so it would meet the code and to remove that section of fence from the request. Also, the request regarding the west side of the property would be removed from the request.

Mr. Spence later sent an email providing the language that was to be stricken from the request: "~~On the south and the adjoining west side, the applicant is proposing a 6' wood fence with a total of 500 lineal feet...~~

**Motion** made by Mr. McGinley, seconded by Ms. Eichner to approve the variance as amended on the record, finding the request meets the criteria. In a roll call vote, motion passed 7-0 with the following in favor: Ms. Ellis, Mr. Reynolds, Mr. McGinley Mr. Maxey, Ms. Eichner, Mr. Lambrechts, Vice Chair McTigue and with Mr. Villeneuve abstaining.

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**CASE:** PLN-BOA-20110001  
**OWNER:** BEACH, JOHN & NICOLE  
**AGENT:** N/A  
**ADDRESS:** 1140 NE 16 TER, FORT LAUDERDALE, FL 33304  
**LEGAL DESCRIPTION:** PROGRESSO 2-18 D LOT 23 BLK 158  
**ZONING DISTRICT:** RC-15  
**COMMISSION DISTRICT:** 2  
**REQUESTING:** Sec. 47-5.33. - Table of dimensional requirements for the RC-15 and RCs-15 districts. (Note A)

1. Requesting a variance to enclose an existing carport with a front yard setback of 24.86 whereas the code requires a minimum of 25.0 feet front yard setback, a total variance request of 0.14 feet.
2. Requesting a variance to enclose an existing carport

with a side yard setback of 3.0 feet whereas the code requires a minimum of 5.0 feet side yard setback, a total variance request of 2.0 feet.

Mr. Villeneuve rejoined the Board.

John Beach, owner, provided a Power Point presentation, a copy of which is attached to these minutes for the public record. He explained the house had been positioned incorrectly when it was built, causing the intrusion into the setbacks. He said four neighbors had provided letters of support. He informed the Board that they planned to enclose the carport to create a laundry room and a  $\frac{3}{4}$  bath. The footprint and lot coverage would not increase.

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

Mr. McGinley said he was "not a fan" of having structures so close to the property line, but the owner had his neighbors' support.

**Motion** made by Mr. McGinley, seconded by Mr. Maxey to approve the variance request, finding it meets the requirements. In a roll call vote, motion passed 7-0 with the following in favor: Mr. Reynolds, Mr. McGinley, Mr. Maxey, Ms. Eichner, Ms. Ellis, Mr. Villeneuve, Vice Chair McTigue.

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<b>CASE:</b>	<b>PLN-BOA-20110003</b>
<b>OWNER:</b>	RUACH INC
<b>AGENT:</b>	CRUSH LAW, JASON S. CRUSH
<b>ADDRESS:</b>	3558 N OCEAN BLVD, FORT LAUDERDALE, FL 33308
<b>LEGAL DESCRIPTION:</b>	GALT OCEAN MILE-RESUB LOTS 3 TO 12 BLK 8 & BLK 16 38-18 B LOT 9 BLK 16
<b>ZONING DISTRICT:</b>	CB
<b>COMMISSION DISTRICT:</b>	1
<b>REQUESTING:</b>	<b><u>Section 5-27(a)- Distances of establishments from church or school.</u></b>

Requesting a special exception to allow the sale of alcohol from Chabad and school, from the following:

- The Pita Xpress Restaurant is located approximately 71 feet from one of the Chabad Lubavitch Of Greater Fort Lauderdale's properties; A total variance request of 429 +/- feet.
- The restaurant is 136 feet from another of the Chabad's properties; A total variance request of 364 feet.
- The restaurant is also 243 feet from the Shalom Pre-school operated by Chabad; A total variance request of 257 feet.

Jason Crush, attorney, gave a provided a Power Point presentation, a copy of which is attached to these minutes for the public record. He said the City's ordinance required a 500-foot separation from a church or school and this was 71 feet from the Chabad, 136 feet from another of the Chabad's properties and 243 feet from the Shalom Pre-school operated by Chabad. The Board of Adjustment could grant the Special Exception if they found the exception would not be contrary to the public interest. Mr. Crush said the owner did not believe this was contrary to the public interest because it was ancillary to the primary service of food and there were many nearby restaurants in the area that served alcoholic beverages. The Chabad's rabbi had provided a letter of support.

Vice Chair McTigue opened the public hearing.

Heather Gilchrist said her parents owned the adjacent property and she was representing them. She stated her parents were concerned that allowing the special exception would exacerbate the existing parking issues. Her parents had clients visiting the adjacent business at all hours in the company of Police escorts and had been harassed by patrons of the restaurant over parking problems.

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

Mr. Maxey asked Mr. Crush to discuss the parking issue with his client because this was outside the Board's purview and Mr. Crush agreed. Mr. Villeneuve agreed with Mr. Maxey.

**Motion** made by Mr. McGinley, seconded by Ms. Ellis to approve the special exception request, finding it meets the requirements. In a roll call vote, motion passed 7-0 with the following in favor: Mr. McGinley, Mr. Maxey, Ms. Eichner, Ms. Ellis, Mr. Villeneuve, Mr. Reynolds, Vice Chair McTigue.

**Communication to the City Commission**

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Mr. Maxey noted that the issues raised in Case PLN-BOA-20090005 would keep coming up as properties were required to meet new water retention guidelines to address sea level rise. He asked if the City Commission was considering ways to help the Board adjudicate these requests. He felt they needed a better interpretation of the code to meet County and State sea level rise requirements. Mr. Malik said staff were looking into it.

**Report and for the Good of the City**

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None

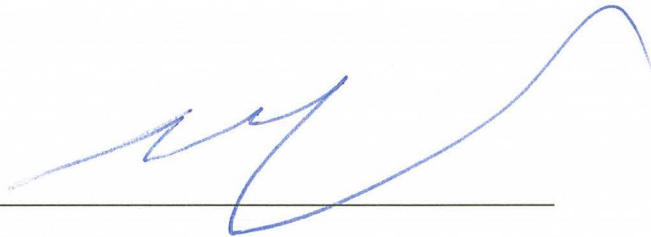
**Other Items and Board Discussion**

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None

There being no further business to come before the Board, the meeting adjourned at 7:51 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.