



**HYBRID BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS
OCTOBER 13, 2021 – 6:00 P.M.**

CITY OF FORT LAUDERDALE

2021
10/13

Cumulative Attendance

Board Members	Attendance	6/2021 through 5/2022	
		Present	Absent
Howard Nelson, Chair	P	4	0
Patrick McTigue, Vice Chair	P	4	0
Howard Elfman	P	4	0
Eugenia Ellis	P	4	0
Chadwick Maxey	P	3	1
Blaise McGinley	P	4	0
Douglas Reynolds	P	3	1

Alternates

Michael Lambrechts	P	4	0
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Staff

D' Wayne Spence, Assistant City Attorney
 Chakila Crawford, Senior Administrative Assistant
 Anthony Fajardo, Director of the Department of Sustainable Development
 Stephanie Hughey, Administrative Assistant
 Burt Ford, Zoning Chief
 Mohammed Malik, Zoning Administrator
 Jamie Opperlee, 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.

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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 determined to be present.

II. **Approval of Minutes – August 11, 2021**

Motion made by Ms. Ellis, seconded by Mr. McTigue, to approve the Board's August 11 2021 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.

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

IV. **Agenda Items**

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CASE: PLN-BOA-21080001

OWNER: M & B HOME PROPERTY INVESTMENT, LLC

AGENT: LINA MARTINEZ

ADDRESS: 603 NE 16TH AVENUE, FORT LAUDERDALE, FL 33304

LEGAL DESCRIPTION: GRACELAND PARK 18-6 B POR LOT 1,2 BLK 1 DESC'D AS; BEG NW COR LOT 2 BLK 1,S 63.17, ELY 132,N

64.38,W 132 TO POB

ZONING
DISTRICT: RC-15
COMMISSION
DISTRICT: 2
REQUESTING: **Sec. 47-18.45.E.4.a- Single family dwelling, attached; Duplex/two (2) family dwelling.**

Requesting a variance for the garage door to be more than fifty (50) percent of the width of the unit's façade, whereas the code requires less than or equal to fifty (50) percent. The total width of each unit is twenty six and one half (26.5 feet). The garage measures fifteen and one half feet. A total of fifty eight and one half (58.5) percent, eight and one half (8.5) percent more than permitted.

Bari Drove, agent, said they had pulled permits and done the construction on the Building at 603. Once they began the second building – 601 – they had been informed that the first building had been approved by mistake. They wished the building to stay the same, and noted the townhomes had been sold with a two-car garage, which would be impossible with the change.

Mr. Reynolds asked how this had been missed. Mr. Drove stated he was not aware it was missed because the two-car garages had been approved by the City. Mr. Ford confirmed that the 601 building would conform to Code; the issue had been found in plan review prior to 601 being approved. Mr. Drove stated 603 was already built.

Mr. McGinley said the intent of the code was to avoid these garages but he was sympathetic, since the building was already constructed.

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

Motion made by Mr. McGinley, seconded by Ms. Ellis:

To approve the variance for BOA Case # **PLN-BOA-21080001** because it meets the criteria for a variance.

In a roll call vote, motion passed 7-0.

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CASE: PLN-BOA-21080002

OWNER: 1302 NE 32ND LLC

AGENT: DANICA BLAZANOVIC

ADDRESS: 2831 EAST COMMERCIAL BLVD, FORT LAUDERDALE, FL
33308

LEGAL DESCRIPTION: CORAL RIDGE COMMERCIAL BLVD ADD 43-13 B LOT 2,3
BLK 3

ZONING DISTRICT: CB

COMMISSION DISTRICT: 1

REQUESTING: Sec. 5-26 -Distance between Establishments

Requesting a special exception for the required distance separation of three hundred (300) feet between establishments selling alcoholic beverages. The property is 223 feet from the nearest establishment licensed to sell alcoholic beverages. Requesting the distance of separation be reduced from three hundred (300) feet to two-hundred twenty three (223) feet, a total reduction of seventy seven (77) feet.

Danica Blazanovic, agent, gave a Power Point presentation, a copy of which is attached to these minutes for the public record. She had a letter of support from Mr. LaTour, the owner of the nearest establishment licensed to sell alcoholic beverages. Ms. Blazanovic stated this was a family restaurant, not a place that would become a drinking spot.

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

Motion made by Mr. Reynolds, seconded by Mr. Elfman

To approve the special exception for BOA Case # **PLN-BOA-21080002** because it meets the criteria for a special exception.

In a roll call vote, motion passed 7-0.

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CASE: PLN-BOA-21080003

OWNER: CAPITAL AMIREY NADLAN LLC

AGENT: HOPE CALHOUN OF DUNAY, MISKEL AND BACKMAN, LLP

ADDRESS: 208 SE 9 ST, FORT LAUDERDALE, FL 33316

LEGAL DESCRIPTION: TARPON RIVER PARK 15-44 B LOTS 3,4 & 5 BLK 4

ZONING DISTRICT: RAC-RPO

COMMISSION DISTRICT: 4

REQUESTING: Sec. 47-13.20.D. -Density in the RAC-TMU District and RAC-RPO District.

Requesting a variance from the requirement of Section 47-13.20.D. of the ULDR that effectively limits the maximum density of a development within the RAC-RPO district to fifty (50) dwelling units per net acre to allow the development of a 41 unit multi-family project with a calculated density of 100 dwelling units per acre. The request for the increased density does not violate the density limitation of the Downtown Regional Activity Center (DRAC) Future Land Use of the City of Fort Lauderdale Comprehensive Plan Future Land Use Element.

Hope Calhoun, agent, gave a Power Point presentation, a copy of which is attached to these minutes for the public record. She reviewed the variance criteria and noted this had been previously approved administratively. The City had subsequently noted it should not have been approved administratively, it must come to the Board of Adjustment. Ms. Calhoun stated this would be a nice addition to the area and was consistent with other nearby buildings.

Chair Nelson asked Mr. Spence if this was the proper subject for a variance because it would exempt it from zoning requirements. Mr. Spence explained this appeared to be a use variance but he would frame it as a variance from the Code provision. Ordinance C20-38 had a provision, which was stricken, capping the maximum density. The new provision, from which the applicant was requesting a variance, was the note to table, providing that all development in the RACRPO District greater in density than 35 dwelling units per net acre or up to 50 dwelling units per net acre shall be reviewed subject to the requirements of Section 47-24.3 Conditional Use.

Chair Nelson asked why the City would not direct the applicant to seek an unusual use or a flex allocation. Mr. Spence replied that in the RAC the flex units had been assigned in the general pool.

Ms. Ellis noted there was also 1,300 square feet of commercial space on the ground floor. Ms. Calhoun explained that the RACRPO zoning called for mixed-use.

Mr. Spence said since the provision allowed for a conditional use for a development over 35 dwelling units per net acre, and this would exceed that, the Board could require this to go through the conditional use approval process. Ms. Calhoun noted her client had lost a substantial amount of construction time due to the approval delay and the pandemic, and the property was vacant. She said the owner had obtained approvals after purchasing the property.

Mr. Reynolds was concerned about setting a precedent for neighbors on the south side of SE 9th Street. Ms. Ellis stated this looked like part of a transition zone. Mr. Fajardo said they had looked at that in this case and the building form met the requirements for a stepdown. The variance was needed for the density. If the applicant did not receive a variance, they would need to reduce the number of units.

Chair Nelson opened the public hearing.

Patrick Frawley, neighbor, objected to the request because he was concerned about traffic, parking, safety and because single family homes abutted this project. He noted there were already issues with speeding in the neighborhood. Mr. Frawley pointed out that the two nearby taller buildings were in the RAC, so their density was allowed.

Michael Rush, owner of an adjacent single family property, said he strongly objected to this request. He said the City needed to consistently draw the line between a high-density structure and single-family homes. He stated this was not compatible with the neighborhood.

Victor Rybalka, neighbor, said there was already a speeding problem on the street. He added that this building would be adjacent to his backyard. He was also concerned that new elevation requirements would result in his property flooding.

Martin Gonzalez, neighbor and realtor, said when a high-rise was erected adjacent to a single-family home, the single-family home's property value dropped. He stated the soil removal to accommodate the foundation would also impact the foundations of the adjacent single-family homes.

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

Ms. Calhoun reminded the Board that this property was in the RAC, so it was not only about the number of units, but also about the types of uses. If they lost dwelling units, and incorporated more commercial uses, this would have higher traffic impact. She stated the traffic impact had been evaluated and approved. Ms. Calhoun pointed out that the building envelope would not change if the variance were denied; only the uses would.

Ms. Ellis noted the building met the criteria but the number of dwelling units inside the building necessitated the variance

Motion made by Mr. McGinley, seconded by Ms. Ellis:

To approve the variance for BOA Case # **PLN-BOA-21080003** because it meets the criteria for a variance.

In a roll call vote, motion **failed** 0-7.

The Board took a brief break.

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CASE:	PLN-BOA-21080004
OWNER:	RONNIE PICOU
AGENT:	CRUSH LAW, P.A. – JASON S. CRUSH
ADDRESS:	429 NW 1 AVE, FORT LAUDERDALE, FL 33301
LEGAL DESCRIPTION:	NORTH LAUDERDALE AMEN PLAT 1-182 D LOT 6,7 N 25 BLK 25, NORTH LAUDERDALE AMEN PLAT 1-182 D LOT 5 BLK 25
ZONING DISTRICT:	RAC-UV
COMMISSION DISTRICT:	2
REQUESTING:	<u>Sec. 5-26- Distance between Establishments.</u>

Requesting a special exception for the required distance separation of three hundred (300) feet between establishments selling alcoholic beverages. The property is 84 feet from the nearest establishment licensed to sell alcoholic beverages. Requesting the distance of separation be reduced from three hundred (300) feet to eighty-four (84) feet, a total reduction of two hundred sixteen (216) feet.

Jason Crush, agent, gave a Power Point presentation, a copy of which is attached to these minutes for the public record. He said they were 84 feet from the nearest property with a license to sell alcoholic beverages instead of the required 300 feet.

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

Motion made by Mr. McGinley, seconded by Mr. Elfman:

To approve the special exception for BOA Case # **PLN-BOA-21080004** because it meets the criteria for a special exception.

In a roll call vote, motion passed 7-0.

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CASE:	PLN-BOA-21080006
OWNER:	TWIN ANGELS PROPERTIES, LLC
AGENT:	BRADLEY A. PISTOTNIK
ADDRESS:	500 FLAMINGO DRIVE, FORT LAUDERDALE, FL 33301
LEGAL DESCRIPTION:	THE NORTH ½ OF LOT 31 AND ALL OF LOT 32 IN BLOCK 5, RIVIERA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 6, PAGE 17, OF THE PUBLIC RECORDS OF BROWARD COUNTY
ZONING DISTRICT:	RS-8- RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY DISTRICT
COMMISSION DISTRICT:	2
REQUESTING:	<u>Sec. 47-19.1.H- General Requirements</u> Requesting a variance to install a generator at a corneryard setback of 7.32 feet whereas the code requires a minimum setback of 15 feet, a total reduction of 7.68 feet.

Bradley Pistotnik, agent, said they felt the need for a generator on the property and had found no other suitable options for its location. He said there was a hedge along this side of the property so the generator would not be visible to neighbors.

Mr. Pistotnik said this was a natural gas generator and there was no tank. Regarding noise, he said the 9 to 10-foot tall hedge would block most of the noise for the neighbor across the street.

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

Motion made by Mr. Maxey, seconded by Mr. Elfman:

To approve the variance for BOA Case # **PLN-BOA-21080006** because it meets the criteria for a variance.

In a roll call vote, motion passed 7-0.

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CASE:	PLN-BOA-21090001
OWNER:	FLORIDA PLACES 4 RENT LLC
AGENT:	HOPE CALHOUN, ESQ. - DUNAY, MISKEL AND BACKMAN, LLP
ADDRESS:	2309 BARCELONA DRIVE, FORT LAUDERDALE, FL 33301
LEGAL DESCRIPTION:	LOT E, BARCELONA ISLES ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 44, PAGE 17, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA
ZONING DISTRICT:	RS-4.4- RESIDENTIAL SINGLE FAMILY/LOW DENSITY DISTRICT
COMMISSION DISTRICT:	2
REQUESTING:	<u>Sec. 47-19.5. - Fences, walls and hedges.</u>

Requesting a variance from the 6'-6" Height MAX. Measured from Grade According to Section 47-2.2.G for Fence/Wall in Residential Zoning Districts as provided in Table 1 of Section 47-19.5 – Fences, walls and hedges to allow a nine foot eight inch (9' 8") fence, a total deviation in height of three foot two inches (3' 2").

Hope Calhoun, agent, gave a Power Point presentation, a copy of which is attached to these minutes for the public record. She reported they had received a letter of support from an adjacent neighbor. She stated the request met the variance criteria and a literal interpretation would deprive the owner of property rights.

Chair Nelson said there was a modification of the fence height ordinance before the City Commission and asked staff if this request would be consistent with that ordinance, if it were in place. Mr. Malik confirmed it would be. Ms. Calhoun said if the ordinance were adopted, they would not need the variance.

Chair Nelson opened the public hearing.

William Ruh, neighbor, asked if wall heights were allowed to be 9' 8" because water in a hurricane could get that high. Chair Nelson explained that flood elevations were changing and the higher wall accommodated the higher finished floor elevations. Mr. Ruh said he therefore did not oppose the request.

Michael Marshall, attorney representing the property immediately north of this property, said this was a question of whether this was the minimum variance needed to make reasonable use of the property. He said the code required the finished floor elevation to be one foot above the flood elevations. This applicant had raised the floor more than one foot, therefore, the hardship was self-imposed. He also did not believe it was fair to say that any fence under 5'8" was a hardship and that owner was being denied use of his property.

Ms. Calhoun read from the Planning Department's comment stating the property's flood risk had increased and the minimum elevation for this structure was eight (8) feet NAVD. Mr. Ford stated the current flood maps indicated this property was AE5 with a six foot finished floor elevation, the new maps, which would be adopted within a year, would indicate this property was AE7. Chair Nelson pointed out that the revised ordinance measured from the finished floor elevation.

Mr. Spence stated two ordinances had been considered. The fence transparency ordinance had died on first reading. The redefining of grade, which would impact this site, had been approved on first reading.

Mr. Malik said there were currently no fence transparency requirements. If the grade ordinance passed, it would be per FEMA requirements. Fences would then be measured from FEMA grade. This ordinance change was pursuant to a request from the Board of Adjustment.

Mr. Maxey suggested the applicant table the item until the ordinance passed or failed.

George Brewer, architect, said there was a retaining wall on this site and it was over five feet tall. The road was at two feet NAVD and during their permit review process, they had been required to raise the house to eight feet NAVD, but only the pool deck was being retained. He noted that the pool required a four-foot fence, which at this elevation was 10 feet for the adjacent property.

Ms. Ellis asked if the applicant could have further discussions with the rear adjacent property owner but Ms. Calhoun said the adjacent property owner wanted a lower fence, but code required the pool fence to be four feet.

Mr. Brewer said they were requesting a fence five feet above the land elevation, which would be nine feet for the abutting property. Mr. Brewer said that property was a rental property with almost no windows facing this property. Mr. Marshall said this was not a rental; the owner was renovating the property. The wall facing this property had his kitchen, dining room and a bedroom. Mr. Marshall said the applicant had decided to build the floor elevation to eight feet, when only six was required. Ms. Calhoun said the architect had discussed the elevation with staff, who had indicated the minimum elevation for this structure was eight feet, not six.

Chair Nelson thought the applicant could consider a more porous top few feet, since they intended to plant landscaping on the applicant's side. Mr. Brewer indicated this encouraged landscaping to grow through the fence, raising issues of maintenance responsibility.

Milik Novich, applicant, stated the adjacent neighbor should install his own fence. He had agreed to stucco the wall on both sides and to paint the side that faced the neighboring home the same color as the home.

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

Mr. Maxey noted how the Board supported the ordinance change to address privacy issues as the City was redeveloped.

Mr. Malik noted a scrivener's error in the description of the request (which is correct in the minutes).

Motion made by Mr. McGinley, seconded by Mr. McTigue:

To approve the variance for BOA Case # **PLN-BOA-21090001** because it meets the criteria for a variance.

In a roll call vote, motion passed 5-2.

Communication to the City Commission

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None

Report and for the Good of the City

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None

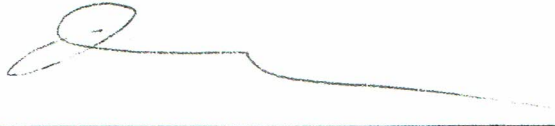
Other Items and Board Discussion

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None

There being no further business to come before the Board, the meeting adjourned at 8:17 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.