



**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS
OCTOBER 12, 2022 – 6:00 P.M.**

CITY OF FORT LAUDERDALE

Board Members	Attendance	Cumulative Attendance 6/2022 through 5/2023	
		Present	Absent
Howard Nelson, Chair	P	5	0
Blaise McGinley, Vice Chair	P	4	1
Howard Elfman	P	5	0
Bill Kent	A	0	1
Chadwick Maxey	P	4	1
Douglas Meade	P	5	0
Robert Wolfe	A	4	1

Staff

D'Wayne Spence, Assistant City Attorney
 Chakila Crawford, Senior Administrative Assistant
 Jazmine Eveillard, Administrative Assistant
 Mohammed Malik, Zoning Administrator
 Burt Ford, Zoning Chief
 James Hollingsworth, Zoning Plan Examiner
 Jamie Opplerlee, Recording Secretary, Prototype Inc.

Communication to the City Commission

Motion made by Chair Nelson, seconded by Mr. McGinley to:

Request the City take a look at the height and zoning requirements in the annexed areas to more accurately reflect current building construction techniques. In a voice vote, motion **passed** unanimously.

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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 10, 2022

Motion made by Mr. McGinley, seconded by Mr. Elfman to approve the Board's August 10, 2022 minutes. In a roll call 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-22070001
OWNER:	LENNAR HOMES, LLC
AGENT:	GREENSPOON MARDER LLP/DEENA GRAY, ESQ
ADDRESS:	SW 20 TH AVENUE, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	A PORTION OF LOTS 4, 5 & 6, ALL IN BLOCK E, RIVERSIDE NO. 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 104, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A SOUTHEAST CORNER OF PARCEL 4, "RIVERSIDE PARK TOWNHOUSE AND VILLAS", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 141, PAGE 43, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 21'20'13" WEST, A DISTANCE OF 90.61 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00'48'58" WEST, A DISTANCE OF 54.74 FEET; THENCE NORTH 89'11'02" EAST, A DISTANCE OF 159.17 FEET; THENCE SOUTH 00'48'58" EAST, A DISTANCE OF 54.74 FEET; THENCE SOUTH 89'11'02" WEST, A DISTANCE OF 159.17 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE AND BEING IN THE CITY OF

OAKLAND PARK, BROWARD COUNTY, FLORIDA AND
CONTAINING 8,712 SQUARE FEET OR 0.20 ACRES,
MORE OR LESS. BUILDING 9

ZONING DISTRICT:

RM-15 – RESIDENTIAL MULTIFAMILY LOW
RISE/MEDIUM DENSITY
4

**COMMISSION
DISTRICT:**

REQUESTING:

**Sec. 47-18.33.B.5.c.– Single family dwelling, attached:
Townhouses.**

- Requesting a variance to eliminate a 5' by 54.4' pedestrian easement along the east side lot line of Building 9 of the townhouse development not abutting a public street, whereas the code requires a 5' pedestrian easement when not abutting a public street.

**This case was Deferred from the August 10, 2022
Agenda.**

Chair Nelson recused himself from this item. The Board lost quorum and the item could not be heard.

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CASE: PLN-BOA-22080001

OWNER: ADDEPALLI, LAKSHMI P; ALAPATI, KRANTHI

AGENT: MATTHEW ROQUE-PASKOW

ADDRESS: 3025 CENTER AVENUE, FORT LAUDERDALE, FL 33308

LEGAL DESCRIPTION: THE SOUTH 20 FEET OF LOT 24, AND ALL OF LOT 25, BLOCK 10, LAUDERDALE BEACH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 2, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. PROPERTY ADDRESS: 3025 CENTER AVENUE, FORT LAUDERDALE, FLORIDA 33308

ZONING DISTRICT: RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY

**COMMISSION
DISTRICT:** 2

REQUESTING: **Sec. 47-19.2.A.5.a. - Accessory buildings, structures and equipment, general.**

- Requesting a variance to reduce the minimum lot size from 10,890 square feet to 9,003 square feet, a total reduction of 1,887 square feet to allow an existing non-conforming

garage to be converted to a Granny flat.

Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district.

- Requesting a variance to reduce the minimum 15 feet rear yard setback to 2.8 feet, a reduction of 12.2 feet to allow an existing non-conforming garage to be converted to a Granny flat.
- Requesting a variance to reduce the minimum 5 feet north side yard setback to 3.77 feet, a reduction of 1.23 feet to allow an existing non-conforming garage to be converted to a Granny flat.

Sec. 47-19.1. B. - General requirements.

- Requesting a variance to allow an existing non-conforming structure to be located within a required yard, whereas the code states that “No accessory use or structure may be located within a required yard specified by the zoning district where the development site is located, unless specifically permitted by the ULDR.”

Matthew Roque-Paskow, property manager, reported he had spoken with some of the neighbors. He said when the owner purchased the property, it was listed as having four bedrooms/four baths with two units [including the granny flat]. The Broward County Property Appraiser also listed the property as a four bedroom. He had subsequently discovered the granny flat was not properly permitted and applied for the variances.

Chair Nelson asked if a setback variance would be needed if this were used as a garage. Mr. Malik said the City’s records indicated the garage was built with a permit in 1957 and would be allowed as an existing non-confirming structure.

Mr. McGinley said he had seen six letters of opposition and Mr. Malik confirmed all had been provided to Board members.

Chair Nelson opened the public hearing.

Steve Ganon, president of the Lauderdale Beach Homeowners Association, the neighborhood in which this property was located, said he had sent emails to the association members and scheduled a meeting. Ten households had attended the meeting with Mt. Roque-Paskow. All attendees had voted no and there were three proxy no votes. Mr. Ganon did not see the hardship.

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. Roque-Paskow said the hardship was the home did not have the four bedrooms/four baths indicated when the owner purchased it. He noted the neighbors had not had an issue with the granny flat as long as it had existed. He confirmed the owner did not intend to rent the flat as affordable housing, nor would he rent it separately from the main house.

Motion made by Mr. Maxey, seconded by Mr. McGinley to:
Approve all the variance requests for Case **PLN-BOA-22080001** because they meet the criteria for a variance. In a roll call vote, motion **failed** 0-5.

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CASE:	PLN-BOA-22080005
OWNER:	EHMKE, PAULA JEAN & RICHARD
AGENT:	STEPHANIE TOOTHAKER, ESQ.
ADDRESS:	1400 SW 18 th COURT, FORT LAUDERDALE, FL 33315
LEGAL DESCRIPTION:	LOT 1 AND THE EAST 20 FEET OF LOT 2, BLOCK 18, REVISED PLAT OF YELLOWSTONE PARK 1 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 33, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

ZONING DISTRICT:	RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY
COMMISSION DISTRICT:	4

REQUESTING:	<u>Sec. 47-19.2. P.- Freestanding shade structures.</u>
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- A variance to request an existing freestanding shade structure with outdoor kitchen to be located in the front yard where the Code allows freestanding shade structures to be located in the rear yard.
- A variance to request an existing freestanding shade structure with outdoor kitchen to be 244 square feet whereas the Code allows a maximum of 200 square feet, variance request of 44 square feet.
- A variance to request an existing freestanding shade structure with outdoor kitchen to have a maximum height of 14.5 feet where the Code allows a maximum height of 12 feet measured from the ground to the top of the structure, variance request of 2.5 feet.
- A variance to request an existing freestanding shade structure with outdoor kitchen to have a full-height wall on one side where the Code allows all sides to be partially

enclosed with 42-inch high built-in cabinetry.

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

- A variance from the 25 feet minimum front yard requirements of Section 47-5.31 Table of Dimensional Requirements to allow an existing freestanding shade structure to remain at a front yard setback of 2 feet measured from the roof overhang, a total maximum variance request of 23 feet.

Stephanie Toothaker, attorney, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Ms. Toothaker said they had letters of support from three neighbors, two of whom were adjacent. Chair Nelson stated they had received one letter of objection from one adjacent property owner.

Paula Ehmke said they had wanted to beautify the neighborhood and accommodate their family's needs.

Ms. Toothaker informed Mr. Elfman that the wall and landscaping was still there. The hut was 19 feet from the SW 18th Court pavement. The top of the Tiki hut was 14.5 feet from the deck.

Chair Nelson opened the public hearing.

Derek Fernandez, adjacent neighbor, said the neighbors had not been notified about the new hearing date. He pointed out that the Tiki hut was a Code violations that began in June 2021. He said a Stop Work Order had been issued but work had continued and a second Stop Work Order had been posted. Mr. Fernandez said he opposed the request because of safety issues with the natural gas to the Tiki hut for the kitchen. Mr. Fernandez said he had also called the Police on several occasions because of loud music and noise from this property. He added that SW 18th Court was the front of the home, where the main entrance was and the mailbox was located. Mr. Fernandez also feared the Tiki hut would negatively affect his property's value. He felt the requests did not meet the criteria. Specifically, the orientation of the home was not a special consideration; this was a standard corner lot.

Joaquin Fernandez, architect, discussed the home's orientation on the lot, and said in his opinion, the original front yard was on SW 18th Court. The home had been remodeled to change the main entrance.

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. Toothaker said Mr. Fernandez's objections were to noise, not the structure. She said when Police had been called for the noise issues, the owners had never been cited.

Mr. Malik confirmed that a tribal-built Tiki hut was subject to zoning approval, but not to a City building permit.

Ms. Toothaker said the permits for the Tiki hut and kitchen were on hold pending the variance requests. She said if the variance for height were granted, they would stipulate that if the hut needed to be rebuilt, it would not exceed the height requirements.

Mr. Ford said a front door did not need to face the front yard. The width of the lot determined the front yard. The orientation of the home did not change which side was considered the front.

Richard Ehmke, owner, said they always tried to be good neighbors. He stated he was not aware of the setback requirements when the Tiki hut was built.

Mr. Ford said once anything was added to the Tiki hut, such as this kitchen, it became a structure; it was no longer a Tiki hut.

Ms. Toothaker requested a deferral to allow them time to meet with Mr. Fernandez.

Motion made by Mr. Elfman, seconded by Mr. Maxey to:
Defer the case to the Board's next meeting. In a roll call vote, motion **passed** 4-1 with Mr. Meade opposed.

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CASE:	PLN-BOA-22070003
OWNER:	SILVA, ERIC B H/E; HERNANDEZ-SILVA, SILVIA M
AGENT:	N/A
ADDRESS:	2536 WHALE HARBOR LANE, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION:	LOT 14, RESUBDIVISION OF PORTION OF BLOCK 12, OF "LAUDERDALE ISLES NO. 2", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 41, AT PAGE 10, OF THE PUBLIC RECORDS OF BROWARD COUNTY.
ZONING DISTRICT:	RS-6.85A - IRREGULAR RESIDENTIAL
COMMISSION DISTRICT:	4

APPEALING:

Appealing the Zoning Administrator's Interpretation that the maximum building or structure height of two (2) stories as provided in Sec.47-39.A.6.D is equivalent to 20 feet pursuant to the definition of story provided in Sec. 47-39.A.2.B:

Story: A habitable area of a building horizontally enclosed by the exterior walls of the building, with a vertical clearance between the floor and ceiling of at least seven and one-half (7½) feet. Any upper story which does not exceed two-thirds ($\frac{2}{3}$) of the area of the first-floor level shall not be considered a story except for determining the height of the building. For the purposes of determining the height of a building, a story shall be considered to be every ten (10) feet of building height above first floor level measured from the exterior elevation. For purposes of determining the height of a structure other than a building, a story shall be each ten (10) feet in height of the structure above the established grade. Whereas the applicant has interpreted that the height of a story shall be every 10 feet therefore 30 feet is needed to exceed the 2-story limit.

Whereas the applicant has interpreted that the height of a story shall be every 10 feet therefore 30 feet is needed to exceed the 2-story limit.

Eric Silva, owner, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Mr. Silva stated both the two-story height limit and the 10-foot per floor methodology came from the Broward County code. Mr. Silva summarized that the height limit was two stories, not 20 feet, and the story definition provided a formula for determining height and a story must have 10 feet to be a story. He requested the following interpretation: "The height of a story is every 10 feet, therefore, 30 feet is needed to exceed the two-story limit. Height limit two stories, 10 feet is needed for a story, and it can only be exceeded with three stories, not 24 feet."

Chair Nelson opened the public hearing.

Dawn Hanna, adjacent neighbor, asked the Board to agree with Mr. Silva's interpretation.

Jose Luis Barboza, neighbor, said he agreed with Mr. Silva's interpretation.

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.

Chair Nelson asked which took precedent: the ten-foot exterior measurement or actual height of floors. Mr. Ford said they needed to take both into account. Mr. Spence said the definition of story related to habitable area. For the purposes of determine the height of the building, each floor was considered every 10 feet on the exterior. He read from the code regarding the height measurements and story definition. He recalled that when the City annexed this area, they had worked with the community to maintain its unique character.

Mr. Spence read from the resolution that preceded the annexation, which stated the City would work with the annexed area to develop zoning codes unique to the area, for the purposes of an ordinance that would allow any buildings or structures that did not meet Broward County code or City zoning code to exist in compliance.

Mr. McGinley said from a modern construction perspective, a 10-foot floor-to-floor was unrealistic and requesting a 12-foot floor-to-floor seemed reasonable within the context of a modern home.

Mr. Maxey said perhaps staff should declare a maximum height for two stories. He was unsure the City's interpretation of 10 feet per floor was what the community wanted. Mr. Ford said the code stated the measurement per story was from the floor to the ceiling.

Mr. Spence read from the definition of story: "For the purposes of determining the height of the building, a story shall be considered every ten feet of building height from the first floor level measured from the exterior elevation. "

Chair Nelson said the Board would recess and asked Mr. Silva to consider returning with a variance request instead of an interpretation.

The Board took a brief recess.

Chair Nelson reopened the public hearing.

Dennis Gullo, neighbor, said he was remodeling his home and he and other neighbors would be in the same situation as Mr. Silva.

Motion made by Mr. Maxey, seconded by Mr. McGinley to:

Affirm the interpretation of City staff for case **PLN-BOA-22070003** as it meets the requirements set forth in the ULDR. In a roll call vote, motion **failed** 2-3 with Mr. Maxey, Mr. McGinley and Chair Nelson opposed.

Motion made by Mr. McGinley, seconded by Mr. Meade to:

Reverse staff's decision for case **PLN-BOA-22070003** relative to building height. In a roll call vote, motion **failed** 2-3 with Mr. Maxey, Mr. Meade and Mr. Elfman opposed.

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CASE: PLN-BOA-22080007

OWNER: PALMISANO, JOHN H/E; INDRE, BERNADETTE

AGENT: ANDREW J. SCHEIN, ESQ.- LOCHRIE & CHAKAS, P.A.

ADDRESS: 2809 NE 24 COURT, FORT LAUDERDALE, FL 33305

LEGAL DESCRIPTION: LOT 2, BLOCK 26, OF "CORAL RIDGE GALT ADDITION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 27, AT PAGE 46, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

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

COMMISSION DISTRICT: 1

REQUESTING: **Section 19.2.P.- Freestanding shade structures.**

- Requesting a variance to permit an approximately 451.54 SF (297.54 sq ft within columns + approximately 154 square feet of thatched overhang = 451.54 square feet) freestanding shade structure at a setback of 2.7feet (4.7 feet to column -2 feet including thatched overhang = 2.7 feet) from the rear north property line, whereas ULDR Section 47-19.2. P. of the ULDR states that free standing shade structures must be set back 10' from the rear property line and a maximum of 200 gross square feet for the portion of the structure in the rear yard. A total variance request of 251.54 gross square feet and 7.3 feet from rear property line.

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

- Requesting a variance to permit a freestanding shade structure at a setback of 2.7 feet (4.7 feet to column - 2 feet including thatched overhang = 2.7 feet) from the west side property line, whereas ULDR Section 47-5.30 requires a 10' setback from the side property line. A total variance request of 7.3 feet from west side property line.

Andrew Schein, attorney, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Mr. Schein said eight neighbors had sent letters of support, including the two adjacent ones. No one had sent a letter of objection.

Chair Nelson said the Tiki hut was substantially in excess of the square footage allowed and also in the setback and asked if it could be reduced in size to make it closer to the square footage and setback requirements. Mr. Schein said the structural columns were already embedded in concrete. He said it would not be possible without tearing the entire structure down.

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.

Mr. McGinley asked about the permit status. Mr. Malik pointed out that many of the people constructing the huts informed owners that no permits were needed, but the huts did require zoning permits but not structural permits. Mr. McGinley wondered if the owner could go back to the builder to reconstruct the hut within the setbacks and size limits.

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

Approve the variance requests for case **PLN-BOA-22080007** because they met the criteria for a variance.

Mr. Elfman requested an amendment that if the Tiki hut ever needed to be replaced, it would be rebuilt with a maximum of 200 square feet. Mr. McGinley accepted the amendment.

In a roll call vote, the amended motion **passed 5-0**.

Communication to the City Commission

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Motion made by Chair Nelson, seconded by Mr. McGinley to:

Request the City take a look at the height and zoning requirements in the annexed areas to more accurately reflect current building construction techniques. In a voice vote, motion **passed** unanimously.

Report and for the Good of the City

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- Election of Chairperson and Vice-Chairperson for the balance of unexpired terms.

Mr. Nelson resigned his Chairmanship.

Motion made by Mr. Nelson, seconded by Mr. Meade, to elect Mr. McGinley Chair. In a voice vote, motion passed unanimously.

Motion made by Mr. Nelson, seconded by Mr. Maxey, to elect Mr. Elfman Vice Chair. In a voice vote, motion passed unanimously.

Other Items and Board Discussion

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None

There being no further business to come before the Board, the meeting adjourned at 8:36 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.