

CITY OF FORT LAUDERDALE

BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
DEVELOPMENT SERVICES DEPARTMENT
700 NW 19th AVENUE, FORT LAUDERDALE,
FLORIDA 33311
NOVEMBER 8, 2023 – 6:00 P.M.

| Board Members | Attendance | Cumulative Attendance 6/2023 through 5/2024 | |
|----------------------------|------------|--|--------|
| | | Present | Absent |
| Howard Elfman, Chair | P | 6 | 0 |
| Caldwell Cooper | P | 4 | 2 |
| Milton Jones | P | 5 | 0 |
| Douglas Meade | P | 5 | 1 |
| Patricia Rathburn | P | 6 | 0 |
| Fred Stresau | P | 6 | 0 |
| Robert Wolfe, Vice Chair | P | 5 | 1 |
| Jason Hagopian [alternate] | P | 3 | 0 |

Staff

D'Wayne Spence, Assistant City Attorney
Trudy Riley, Administrative Assistant
Burt Ford, Zoning Chief
James Hollingsworth, Zoning Plan Examiner
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-B0A-23080004 | 2500 Riverland LLC / Nicolle Delgado | 4 | 2 |
| 2. | PLN-B0A-23100001 | William Barker Mock/Andrew Schein Esq. | 4 | 4 |
| | | Communication to the City Commission | | 5 |
| | | For the Good of the City | | 5 |
| | | Other Items and Board Discussion | | 5 |

I. Call to Order

The meeting was called to order at 6:00 p.m. Roll was called and a quorum was determined to be present.

II. Approval of Minutes – October 11, 2023

Motion made by Mr. Wolfe, seconded by Mr. Jones to approve the Board's October 11, 2023 minutes. In a voice vote, 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-B0A-23080004
OWNER: 2500 RIVERLAND LLC
AGENT: NICOLLE DELGADO
ADDRESS: 2500 RIVERLAND RD, FORT LAUDERDALE, FL 33312
LEGAL DESCRIPTION: LOT 7, PALM GROVE ACRES, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 30, PAGE 38, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA (SEE SURVEY)
ZONING DISTRICT: RS-3.52 - IRREGULAR RESIDENTIAL
COMMISSION DISTRICT: 4
REQUESTING: Sec. 47-39. A.1.b.(3). (e). - Yard encroachments.

- Requesting a variance to allow an accessory building on a plot containing a single-family dwelling to build a second story, whereas the code limits the building to a single story.

Sec. 47-39. A.6.D. - Height.

Requesting a variance to allow a new single-family residence t 47-5.31o have a maximum height of 29 feet, whereas the code allows a maximum height of 20 feet (2 Stories) as measured from the finish floor at the exterior elevation. A total variance request of 9 feet.

Avi Schwalb, owner, described the request regarding the height. He said they wished to raise the first and second floors to ten feet each. They also wanted to create an apartment above the detached garage.

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. Wolfe asked about the coming code change regarding height limits. Mr. Malik said the Planning Division was rewriting the code to increase the height up to a maximum of 35 feet. He stated this change must be approved by the Planning and Zoning Board and the City Commission. Mr. Stresau noted the Board could not base their decision on this because it had not happened yet. He asked staff if they could have a kitchen in a second structure on the property [the proposed apartment above the garage]. Ms. Rathburn said a granny flat must only be used for a family member or a worker. Nicolle Delgado, the owner's agent, said the apartment would house a groundskeeper.

Mr. Spence said the Florida legislature had approved allowing an accessory dwelling unit to be used for affordable housing but City code did not indicate this yet. He noted that this use was not part of the variance application so the Board could not approve that.

Mr. Jones felt it would behoove the applicant to wait and see how the City Commission acted regarding the height change.

Mr. Spence stated in this annexed area, two stories were allowed, but the total height allowed was 20 feet. Ms. Delgado said their application was for a height of 29 feet.

Mr. Stresau pointed out that the application did not address the variance criteria. He said there were no special conditions that prevented reasonable use of the property without additional height. Mr. Jones suggested a deferral to later date instead of risking the Board denying the application.

Ms. Delgado said they had been informed last month that they needed to add the second floor garage apartment to the application. Mr. Spence confirmed that if the Board denied the variance, the owner must wait two years to reapply. If the applicant requested a deferral, they could work on the application and return to the Board.

Mr. Schwalb requested a deferral to the next meeting.

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

To defer the case until after the City Commission voted regarding increasing the height.

Mr. Spence pointed out that there was no vote scheduled yet. Mr. Malik wished to stipulate a meeting date for the deferral.

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

To defer the case until the February 14, 2024 BOA meeting. Motion failed 3-4 with Ms. Rahtburn, Mr. Stresau, Mr. Cooper and Chair Elfman opposed.

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

To defer the case to the Board's January 2024 BOA meeting. **Motion** passed 5-2 with Mr. Stresau and Mr. Jones opposed.

2.

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| | |
|-----------------------------|--|
| CASE: | PLN-B0A-23100001 |
| OWNER: | MOCK, WILLIAM BARKER H/E; WILLIAM BARKER MOCK REV TR ET AL. |
| AGENT: | ANDREW J. SCHEIN, ESQ. |
| ADDRESS: | 2512 SE 21 ST, FORT LAUDERDALE, FL 33316 |
| LEGAL DESCRIPTION: | LOT 4, BLOCK 2, BREAKWATER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 42, PAGE 19, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA (SEE SURVEY) |
| ZONING DISTRICT: | RS-8 - RESIDENTIAL SINGLE FAMILY/LOW MEDIUM DENSITY |
| COMMISSION DISTRICT: | 4 |
| REQUESTING: | <u>Sec. 47-5.31. - Table of dimensional requirements for the RS-8 district. (Note A)</u> Requesting a variance to permit a rear yard setback of 15 feet abutting the waterway, whereas the code requires a rear yard setback of 25 feet when abutting the waterway. A total variance request of 10 feet. |

Andrew Schein Esq., agent, provided a Power Point presentation and described the request.

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. Meade referred to a photo of the property that showed a seawall and water, and said this meant the property abutted a waterway. Mr. Schein said the City code defined a waterway as something "navigable," which this was not. He said there were two possibilities: if the property did not abut a waterway, the setbacks should be 15 feet, not 25 feet. If the property abutted a waterway, the setback was 25 feet, and they were requesting a variance based on the hardship that the land was previously reclaimed.

Mr. Stresau asked who owned the seawall and Mr. Schein said it was outside the property line and he did not know who built it, but it was on federal land. He stated they needed the variance for the awnings and for the second floor patio area that was habitable. Mr. Stresau said there used to be a beach here but after repeated dredging it had disappeared.

Mr. Schein stated the architect had considered the code and what had been previously built when designing the home. He had determined that the setbacks were 15 feet.

Ms. Rathburn said she agreed with Mr. Schein's interpretation of the code regarding the waterway. Mr. Meade disagreed with that interpretation. Ms. Rathburn also felt Mr. Schein had proven the hardship.

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

To approve the variance to permit a rear yard setback of 15 feet abutting the waterway, whereas the code requires a rear yard setback of 25 feet because it meets the criteria for a variance. **Motion** passed 6-1 with Mr. Meade opposed.

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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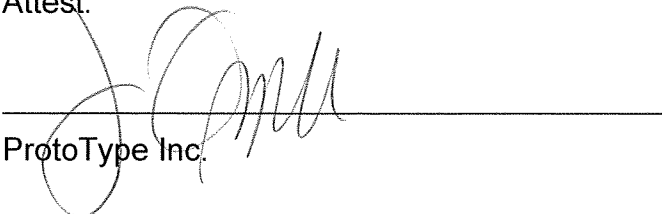
None

There being no further business to come before the Board, the meeting adjourned at 7:00 p.m.

Chair:



Attest:



ProtoType Inc.

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