



**REGULAR MEETING OF  
THE BOARD OF ADJUSTMENT  
MINUTES**

**Tuesday October 6, 2015**

**7:00 PM**

City of Margate  
Municipal Building

**City Commission**

Mayor Joanne Simone

Vice Mayor Tommy Ruzzano

Joyce W. Bryan

Lesa Peerman

Frank B. Talerico

**City Manager**

Douglas E. Smith

**City Attorney**

Eugene M. Steinfeld

**City Clerk**

Joseph J. Kavanagh

**PRESENT:**

Casey Ahlbum, Chair  
Edward DeCristofaro, Vice Chair  
Frederick Schweitzer, Secretary  
Ruben Rivadeneira

**ALSO PRESENT:**

Benjamin J. Ziskal, AICP, CEcD, Director of Economic Development  
Andrew Pinney, Associate Planner

**ABSENT:**

Sydney King

The regular meeting of the Board of Adjustment of the City of Margate, having been properly noticed, was called to order by Chair Casey Ahlbum **at 7:00 p.m. on Tuesday, October 6, 2015**. The Pledge of Allegiance followed. A roll call of the Board members was taken. There were no communications.

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- 1) APPROVAL OF THE MINUTES FROM THE JULY 7, 2015, BOARD OF ADJUSTMENT MEETING

Mr. Schweitzer made the following motion, seconded by Mr. DeCristofaro:

**MOTION:** SO MOVE TO APPROVE THE MINUTES AS WRITTEN.

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. King, Absent; Mr. DeCristofaro, Yes; Mr. Ahlbum, Yes. The motion passed with a 4-0 vote.

**Economic Development Department**

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2A)    **BA-15-2015** --VARIANCE REQUEST FOR SQUARE FOOTAGE STANDARDS

Andrew Pinney advised that this was a request from the Vine International Ministries. He stated that the request dealt with Section 8.4 of the Code. He pointed out the restrictions for the church use and explained that the Code provided for 7,000 square foot and the applicant was seeking approximately 13,000 for their tenant space. He showed a slide and explained that after a grocery store tenant left, the landlord subdivided the space into five unusual shaped spaces. He said if it were subdivided to meet the Code requirement, the other space could not be leased as it would have no frontage, visibility, or customer access.

Mr. Pinney spoke about the Religious Land Use and Institutionalized Persons Act (RLUPA), a Federal act passed by Congress in 2000. He specified the five points that the Act required local municipalities to abide by when dealing with religious institutions. He explained that point two, which was key to the item being discussed, provided protection against unequal treatment for religious assemblies and institutions. Also point five which provided protection against unreasonable limitation of religious assemblies.

Mr. Pinney said he went through the list of permitted uses in Section 8.4(a) and identified similar assembly type uses and cited several examples. He said that there clearly was a conflict between the zoning code and the provisions of RLUPA. As was indicated in the Staff Recommendation for this item, he said Staff was going to work on an ordinance to revise the inconsistencies and eliminate the conflicts with RLUPA. He said the space Vine Ministries was attempting to use was previously leased by a comparable secular institution. Based on the findings, Staff was recommending approval of the request.

Mr. Schweitzer stated his understanding of the issue which Mr. Pinney said was correct.

Mr. DeCristofaro made the following motion, seconded by Mr. Schweitzer:

**MOTION:**    SO MOVE TO APPROVE; REQUEST THAT THE CITY LOOK INTO CHANGING THE ORDINANCE TO BE COMPATIBLE WITH RLUPA.

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. King, Absent; Mr. DeCristofaro, Yes; Mr. Ahlbum, Yes. The motion passed with a 4-0 vote.

2B)    **BA-16-2015**--VARIANCE REQUEST TO UTILIZE GARAGES FOR REQUIRED PARKING IN A MULTI-FAMILY RESIDENTIAL DEVELOPMENT

Andrew Pinney gave an overview of the item. He stated that this request was for Celebration Pointe Phase II and it was for the south half of a 30-acre property that was

being developed as a multi-family development. He said the north half included 282 garden apartments and the south half had 252 units which were bigger and designed to be a little more luxurious. He indicated that the parking regulation for the Planned Residential Development (PUD) zoning district was in Section 19.8 of the Margate Zoning Code. Article 33 of the Code covered the parking requirement for multi-family developments. He said that the Code specifically indicated that garages could not be considered. He showed an aerial of the property and pointed out some of the amenities. He showed a slide of the elevation of the apartment buildings for the Phase II. He said Staff has had variances granted for similar type requests. He said Phase I of Celebration Pointe had been previously granted a variance that allowed garages to be counted toward the parking calculation. He said previously Merrick Preserve received a similar variance to allow garages to be counted in the parking calculation. He pointed out how in Phase II that the garages were linked to specific units which made it more likely that the garages would be used for their intended purpose of parking a vehicle. He pointed out that granting the variance would provide consistency between Phase I and Phase II. He said Staff recommended approval of the request.

Jay Huebner, HSQ Group, after being duly sworn, made the following points to support the request:

- the units were directly connected to the garages
- the condo documents and lease agreements would mandate that the garages could not be enclosed and must be used for vehicular use and not for storage.
- Phase I was approved for a similar variance in 2008; they were asking for less of a variance than was granted for Phase I.
- they were building less units (252 versus 298) resulting in 108 less parking stalls and less traffic
- Current design with garages, there would be 2.2 spaces per unit; without garages, it would be 1.49 spaces. City's TOC required 1.5 spaces per unit; they would be consistent with the TOC with or without the garages.
- Current design has 559 parking spaces; 184 were garages and there would still be plenty of surface parking available. If request was denied, they would need to add 184 parking spaces and would need to change the site plan which would result in reduced density.

Mr. Schweitzer made the following motion, seconded by Mr. DeCristofaro:

**MOTION:**    SO MOVE TO APPROVE WITH THE STIPULATION THAT THE GARAGES COULD NOT BE USED FOR ANYTHING BUT PARKING.

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. King, Absent; Mr. DeCristofaro, Yes; Mr. Ahlbum, Yes. The motion passed with a 4-0 vote.

2C)    **BA-17-2015**--VARIANCE REQUEST FOR PERMISSION TO PROVIDE 90 DEGREE PARKING SPACES THAT ARE 9 FEET WIDE BY 16 FEET DEEP THAT DO NOT PROVIDE WHEELSTOPS, AND ABUT A SIDEWALK THAT IS 7 FEET WIDE.

Andrew Pinney advised that this request was for Phase II, the south half of the PUD development. He referenced Section 33.2 (b) of the Margate Zoning Code which stated that the use of wheelstops shall be required for each parking stall directly abutting a sidewalk, wall or any infrastructure located above ground. He showed a slide of the site plan and a diagram of the parking stalls, noting that the parking stalls had been reduced in depth to 16 feet and abutted a sidewalk without a wheelstop. He noted that the sidewalks had been enlarged to seven feet and allowed for up to a two foot overhang from the vehicle. He said the standard pedestrian width of sidewalks in Margate was five foot. He showed a few images to show the differences between a typical parking stall with wheelstops that was 9 foot by 18 foot. He explained that the petitioner was requesting to reduce the depth of the parking stall to 16 foot and increase the width of the sidewalk. He pointed out that wheelstops often collected debris, were prone to breakage, and were tripping hazards. Mr. Pinney explained that the sidewalks would be raised about six inches above the asphalt so there would be a physical barrier to prevent a vehicle from encroaching the sidewalk area. He said staff findings were:

- pedestrian space would not encroached or diminished
- design met the intent of the Code which was to provide a separation between vehicles and pedestrians
- a similar variance had been granted last year to Toscana.

Mr. Pinney said staff recommended approval of the variance.

Jay Huebner, HSQ Group, said that they felt that the wider sidewalks contributed to a higher type of product and created a nicer feel to the community. He said that most people drove smaller cars and they thought the majority of the seven foot sidewalks would remain open.

Mr. DeCristofaro expressed a concern about a vehicle such as a F250 4x4 that had a length of 18-20 foot. Mr. Huebner said the overall dimensions of 18 foot were not being changed; the only difference was they would have a seven foot versus five foot sidewalk.

Mr. DeCristofaro made the following motion, seconded by Mr. Schweitzer:

**MOTION:**    SO MOVE TO APPROVE

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. King, Absent;  
Mr. DeCristofaro, Yes; Mr. Ahlbum, Yes. The motion passed with a 4-0 vote.

2D)    **BA-18-2015**--VARIANCE REQUEST FOR PERMISSION TO BUILD A NEW RETAIL DEVELOPMENT WITHIN THE TOC-C CORRIDOR ZONING DISTRICT THAT OCCUPIES 20% OF IS PRIMARY ROAD FRONTAGE.

Mr. Schweitzer made the following motion, seconded by Mr. DeCristofaro:

**MOTION:**    TO TABLE TO THE NEXT MEETING

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. King, Absent; Mr. DeCristofaro, Yes; Mr. Ahlbum, Yes. The motion passed with a 4-0 vote.

3)    **GENERAL DISCUSSION**

There being no further business, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

prepared by Rita Rodi

Mr. Casey Ahlbum  
Chair

cc:    City Commission, City Manager, City Attorney, City Clerk, Director of DEES, Engineer, Building Official, Board of Adjustment, Petitioner(s).