



### City Commission

Mayor Tommy Ruzzano  
Vice Mayor Arlene R. Schwartz  
Anthony N. Caggiano  
Antonio V. Arserio  
Joanne Simone

### City Manager

Cale Curtis

### City Attorney

Janette M. Smith, Esq.

### City Clerk

Joseph J. Kavanagh

## REGULAR MEETING OF THE BOARD OF ADJUSTMENT <https://us02web.zoom.us/j/89859595802> MINUTES

**Tuesday, September 1, 2020**

**6:30 PM**

City of Margate  
Municipal Building

### PRESENT:

Julianne Lore, Secretary attended in person  
Elsa J. Sanchez attended in person  
Jorge Milian attended in person

### ABSENT:

Patrick Laffey

### ALSO PRESENT:

Janette M. Smith, Esq., City Attorney attended in person  
Andrew Pinney, Senior Planner attended in person  
Alexia Howald, Associate Planner attended in person

The regular meeting of the Board of Adjustment of the City of Margate, having been properly noticed, was called to order by Acting Chair/Secretary Julianne Lore at 6:32 p.m. on Tuesday, September 1, 2020. Melissa Miller read a statement pertaining to the City's virtual public meeting pursuant to the Sunshine Law and the Governor's Executive Orders. The Pledge of Allegiance was recited; newly appointed board members were then sworn in by City Clerk, Joseph Kavanagh followed by a roll call of the board members.

### 1) NEW BUSINESS

*ID 2020-312*

### 2A) ORIENTATION FOR BOARD OF ADJUSTMENT MEMBERS

Joseph Kavanagh, City Clerk introduced himself and gave a presentation in conjunction with City Attorney, Janette Smith on Board Responsibilities, Rules of Conduct and Procedure, Sunshine Law, Ethics, Voting Conflicts, Gift Laws, Penalties for Violating the Law, Public Records Law, Parliamentary Procedure, Quasi-Judicial Proceedings, Statement of Financial Interest (Form 1), Agendas and Minutes. He concluded by referencing the glossary of terms as well as a list of municipal officials in the City of Margate, along with their contact information. Mr. Kavanagh added that City Staff is always available to both educate and assist the Board in performing their roles.

### Development Services Department

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[www.margatefl.com](http://www.margatefl.com) • [dsd@margatefl.com](mailto:dsd@margatefl.com)

Mr. Andrew Pinney, Senior Planner, introduced himself and gave brief presentation explaining the roles of the Board of Adjustment (BoA), Board Meetings, Board of Adjustment Items, Purpose of the Board of Adjustment, Nature, Criteria, Case Law, Staff Expectation of the Board and Board Expectation of Staff. Mr. Pinney concluded by welcoming the members to the board.

*ID 2020-314*

2B) ELECTION OF CHAIRPERSON OF THE BOARD OF ADJUSTMENT

Ms. Lore made the following motion, seconded by Ms. Sanchez:

**MOTION:** TO ELECT PATRICK LAFFEY AS CHAIRPERSON

**ROLL CALL:** Mr. Milian, Yes; Ms. Sanchez, Yes; Ms. Lore, Yes;  
The motion passed with a 3-0 vote

*ID 2020-315*

2C) ELECTION OF VICE-CHAIRPERSON OF THE BOARD OF ADJUSTMENT

Ms. Sanchez made the following motion, seconded by Mr. Milian:

**MOTION:** TO ELECT JULIANNE LORE AS CHAIRPERSON

**ROLL CALL:** Mr. Milian, Yes; Ms. Sanchez, Yes; Ms. Lore, Yes;  
The motion passed with a 3-0 vote

*ID 2020-316*

2D) ELECTION OF SECRETARY OF THE BOARD OF ADJUSTMENT

Ms. Lore made the following motion, seconded by Mr. Milian:

**MOTION:** TO ELECT ELSA SANCHEZ AS CHAIRPERSON

**ROLL CALL:** Mr. Milian, Yes; Ms. Sanchez, Yes; Ms. Lore, Yes;  
The motion passed with a 3-0 vote

*ID 2020-291*

2E) **BA-03-20** VARIANCE REQUEST TO ALLOW AN ADDITION TO A SINGLE FAMILY DWELLING TO ENCROACH 7.35 FEET INTO THE REQUIRED 15-FOOT REAR SETBACK AND MAINTAIN 400 SQUARE FEET OF TREE CANOPY AREA FOR SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS.

*All those speaking on the item were duly sworn.*

Alexia Howald, Associate Planner introduced herself and gave a brief presentation on the variance. She explained the nature of the variance request, property location, background, proposed addition and landscape requirements. She discussed both the consistency with the Comprehensive Plan and compatibility with the surrounding area. Ms. Howald identified compliance with the code, variance criteria and concluded with staff recommendation of denial.

Ysidora Mueras Boza, 5730 NW 27<sup>th</sup> Street, began by thanking the board members for holding this meeting to hear her application. She stated that the demolition of the addition would prove costly and time consuming, therefore being a hardship on her. Ms. Boza said that she realized her ignorance and lack of experience, saying that she has learned a painful lesson. She asked the board to excuse her in this matter and to decide in her favor, ensuring that this will not happen again in the future.

Gene Arenson, 5790 NW 27<sup>th</sup> Street, introduced himself to the board saying that he is not the homeowner but is a resident of the property. He spoke in regards to the rear setback of the property, stating that it is a corner lot on a cul-de-sac. He said that within the 15-foot setback there is a 6-foot utility easement, which does not interfere with the addition. Mr. Arenson further explained the hardship this may cause due to a possible demolition of the addition. He said that in granting the variance, it would not have a negative effect or impact on the neighbors, neighborhood, or the City of Margate. Mr. Arenson then spoke on the minimum landscape requirement, stating that the property has met the landscape requirement of 750 square feet of approved trees for the lot size, which he noted the lot size to be 75 x 100. He further detailed the location and type of trees planted on the property. He said that the trees give the yard a tropical feel, asking the board to approve the landscape plan as submitted.

Ms. Elsa Sanchez asked for clarification on the 7.35 feet of addition which is in an area that is not allowed. Asking if in order to remove the area, will the entire structure need to be demolished? Ms. Howald responded that the 7.35 feet is encroaching on the 15-foot rear setback. She explained that there are two ways to rectify this situation, either by granting the variance or for the applicant to remove a portion of the addition that is encroaching in the setback. Ms. Sanchez asked if only a portion can be demolished versus the entire addition? Ms. Howald referred to the survey, stating that the applicant has the option to demolish the portion to meet the 15-foot required setback.

Ms. Julianne Lore asked the owner what materials were used to build the addition and what is the addition being used for (what room is it)? Mr. Arenson stated that the addition is being used as a bedroom, utility room, den, and a bathroom. He explained the materials used include a poured concrete floor, cinder block walls, and wood truss roofing; he said that it was done professionally. Ms. Lore asked who was the professional? Mr. Arenson responded that it was done by the home owner's husband who is in the concrete business.

Mr. Jorge Milian asked if the space met code requirements as far as hurricane windows and/or materials used. Mr. Arenson stated that the work was done using cinder block, reinforced with rebar in the slab and to the roof. He said that the windows and doors are hurricane proof. Mr. Pinney responded by clarifying that only the building official or chief structural inspector would be qualified to answer if the addition was built to code; explaining the permitting process. Ms. Boza stated that her neighbors do not have any complaints and that addition was done little by little; and was intended for her mother who moved here from Peru.

Ms. Sanchez asked if someone was living in the portion of the home. Mr. Arenson responded not at this time.

Ms. Sanchez asked about the consequence of approving and if this will set precedence for future. Mr. Pinney responded that there are no precedence standards in Board of Adjustment, each application is weighed on its individual merits with that specific property. He further explained that the staff recommendation is to deny, based on the provided case law of a self-created hardship which is not a genuine hardship that the board can support in its actions.

Ms. Smith stated that there are two issues as notated in the staff report, the first one being the structure itself and the encroachment and the second being the landscape not being up to code. Mr. Pinney explained that there are three options; motion to approve, motion to deny, and motion to approve with conditions. He stated that there are two issues at hand which include the addition encroaching into the required setback and the landscape requirement. He said that if the board is so inclined, they can condition where one is approved and not the other or make a motion to approve and/or to deny all of it.

Ms. Smith asked the petitioner about the reason why a wall board was removed for a structural engineer and/or contractor. Mr. Arenson explained that this was done in order to verify the hidden work on the addition. Ms. Smith asked if this was done at the request of the City? Mr. Arenson answered that this was done by a structural engineer to testify how the construction was done. Mr. Pinney explained that during the permitting process it is a requirement to have engineered drawings.

Ms. Smith clarified for the board that if a variance is approved then it will run with the land. Mr. Pinney agreed stating that it is bound to its successors and heirs, meaning that if the variance is approved it is legally allowed to stay.

Ms. Lore asked if this is denied, how much time will the resident have to remove it? Mr. Pinney responded that it will depend upon the enforcing officer, which in this case is the building department. Ms. Lore asked when the addition was put on? Mr. Pinney responded about 10 years ago. Mr. Arenson answered that it was completed about 5-6 years ago. Ms. Howald gave a history of when the inspector noticed the addition to the submittal of the building permit application; in which the zoning review showed that it did not conform to the rear setback or the minimum landscape requirements. Ms. Lore asked if the owner was aware that permits were required. Ms. Boza responded that she was not aware and neither was her husband.

Ms. Sanchez made the following motion, seconded by Mr. Milian:

**MOTION:** MOTION TO APPROVE THE VARIANCE REQUEST TO MAINTAIN 400 SQUARE FEET OF TREE CANOPY AND TO REMOVE THE PORTION OF THE BUILDING ENCROACHING IN THE REAR SETBACK.

Public Comment:

City Attorney, Janette Smith stated that this member from the public is not visible via Zoom video, therefore this will not be considered competent substantial evidence since they are not on camera and will not be sworn in. This will only be allowed as a public comment.

Sophia commented via Zoom on how a demolition could compromise the roof and would also create dust and debris in the neighborhood. She said that this is a difficult situation for everyone and she asked the board to vote in favor of this variance.

Mr. Pinney reminded the board to not feel too much weight on their decision making process, explaining that the aggrieved party from this action will have the opportunity to appeal to the City Commission.

Ms. Lore asked if there is a monetary fine from the building department? Mr. Pinney responded that his understanding is that the permit fee will be doubled when there is work done without a permit.

**ROLL CALL:** Mr. Milian, Yes; Ms. Sanchez, Yes; Ms. Lore, Yes;  
The motion passed with a 3-0 vote

City Attorney, Janette Smith restated the motion and said that the applicant can appeal this decision to the City Commission.

### 3) **GENERAL DISCUSSION**

Mr. Pinney recommended that the board choose an alternate date to hold the November Board of Adjustment Meeting, seeing that this year election day falls on the first Tuesday of month. Ms. Lore asked for consensus from the board to hold the meeting on Monday, November 9, 2020 at 6:30 p.m. The board agreed to this alternate date and time.

Elsa Sanchez asked about the Statement of Financial Interests Form 1 that needs to be filed. Ms. Smith responded that she has 30 days from appointment to file and that an original copy with original signature will need to be submitted to the City Clerk, Joseph Kavanagh. Mr. Kavanagh stated that once the original is received, he will then forward it to the State and to Broward County.

Julianne Lore thanked everyone for their assistance during COVID-19, she asked that everyone stay healthy and safe, and congratulated the new board members.

There being no further business, the meeting was adjourned at 9:14 p.m.

Respectfully submitted,

Prepared by Melissa M. Miller

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Julianne Lore, Acting Chair