



City Commission

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REGULAR MEETING OF THE BOARD OF ADJUSTMENT MINUTES

Tuesday, May 3, 2016

7:01 PM

City of Margate
Municipal Building

PRESENT:

Edward DeCristofaro, Chair
Paul Barasch, Vice Chair
Frederick Schweitzer, Secretary
Chad Dangervil
Ruben Rivadeneira

ALSO PRESENT:

Andrew Pinney, Associate Planner
Steven Wherry, Greenspoon Marder Law

The regular meeting of the Board of Adjustment of the City of Margate, having been properly noticed, was called to order by Chair Edward DeCristofaro at 7:01 p.m. on Tuesday, May 3, 2016. The Pledge of Allegiance was recited. A roll call of the Board members was taken. There were no communications.

- 1) APPROVAL OF THE MINUTES FROM THE APRIL 5, 2016 BOARD OF ADJUSTMENT MEETING

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

MOTION: SO MOVE TO APPROVE THE MINUTES AS WRITTEN

ROLL CALL: Mr. Dangervil, Yes; Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. Barasch, Yes; Mr. DeCristofaro, Yes. The motion passed with a 5-0 vote.

All those speaking on the following items were duly sworn.

- 2) **NEW BUSINESS**

- 2A) **BA-13-2016:** VARIANCE REQUEST FOR PERMISSION TO REDUCE THE FRONTAGE BUILD-OUT FOR THE NEW BURGER KING CONSTRUCTION LOCATED AT 2980-2990 NORTH STATE ROAD 7.

Economic Development Department

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Andrew Pinney explained that two items were being heard pertinent to the Burger King project. He started by showing an aerial of the location of the subject property on a PowerPoint presentation. He pointed out the existing driveway connections that were utilized by the Walgreens to the north and the medical offices to the east. He referenced Section 9.7(H) of the Zoning Code which required that the minimum frontage build-out should be seventy (70) percent in the TOC-C and TOC-G districts. He showed the proposed Site Plan that had been reviewed by the Development Review Committee (DRC) and explained that the development would consist of two buildings: a generic retail building on the property line facing State Road 7; and, the Burger King building on the north end of the property. He explained that staff met with the applicant prior to DRC because the original proposal had been for only the Burger King building on the property. He said staff explained the Code provisions of the TOC about building out the frontage and providing building placement close to the road, and the retail building was added to the development to meet Code requirements. He noted that the retail was at 40 percent frontage build-out and that the driveway also took up a portion of the frontage. He said they [Burger King] laid it out the way they did because they had a drive through window that necessitated vehicular circulation around the entire building which meant the building had to be pushed back from the roadway. He noted that the driveway provided enhanced vehicle circulation and pedestrian safety and the site functioned better with it.

Mr. Pinney summarized the Staff Findings which were:

- a small use on a big property
- intent of the Code was met by adding the retail component
- they were working around the existing driveway connections that they shared with Walgreens and the medical offices.

He said staff recommended approval.

Kevin Kelleher, resident, 5200 NW 26 Court, commented that he was not in favor of the proposal as it did not fit with the vision of the City which was to move away from auto-oriented uses towards pedestrian-friendly transit. He said Margate needed more high profile businesses that would attract other high profile businesses that paid middle income wages and would draw people to Margate. He said he preferred to see a multi-story building with a Burger King inside.

Steve Wherry, Greenspoon Marder, for the applicant, commented that they had tried to meet the design standards of the Code as much as possible. He said the approval of the two variances before them allowed the activation of the property versus it sitting vacant. He said having an active, vibrant business community would help bring people to Margate.

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

MOTION: SO MOVE TO APPROVE

Mr. Dangervil said that he agreed with bringing more businesses into that area. He suggested having the retail building converted to business offices to attract new businesses and more people.

Mr. Barasch asked Mr. Pinney to point out what was immediately surrounded the property. Mr. Pinney referenced the aerial and Site Plan and showed the Burger King location in relation to the major streets which included State Road 7, N.W. 31st Street to the north which connected to

Coral Landings III and Peppertree Plaza, the medical offices adjacent to the site and on the south side of Coral Gate Boulevard, the hospital on the west side, and the Toscana development across the street.

ROLL CALL: Mr. Dangervil, Yes; Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. Barasch, No; Mr. DeCristofaro, Yes. The motion passed with a 4-1 vote.

2B) **BA-15-16:** VARIANCE REQUEST FOR PERMISSION TO INCREASE THE SETBACK FROM STATE ROAD 7 FOR THE PROPOSED BURGER KING BUILDING TO BE LOCATED AT 2990 NORTH STATE ROAD 7.

Andrew Pinney continued with a PowerPoint presentation. He identified the relevant section of the Zoning Code, Section 9.7(C), which stated that "the primary frontage setback shall not exceed the maximum setback necessary to satisfy any required trafficways reservation, and will be the required build-to-line." He explained the terms build-to-line and setback. He explained how the build-to-line could be found on any property which started by identifying the major roadway on the front property line. In this instance, he noted that it was State Road 7 which he said required a 25-foot urban greenway or front sidewalk. Next, he said the curb on the roadway was identified and then by going back 25 feet to accommodate the urban greenway would be where the build-to-line fell, hypothetically. He said in those cases where there was an easement on the front of the property, the front build-to-line would be pushed back behind the easement. He noted that for this item, there was a ten-foot utility easement so the back edge of the utility easement became the build-to-line for this property. He pointed out that the retail building was aligned with the build-to-line while the Burger King building was set back an additional 64 feet from the build-to-line. He reiterated his comment from the previous item noting the Burger King building was set back for enhanced circulation on the site for the drive-through patrons, as well as exiting options.

Mr. Pinney summarized the Staff Findings which were:

- the Florida Department of Transportation (FDOT) had minimum vehicle stacking requirements for the drive through that the applicant needed to accommodate;
- the drive-through had design challenges.

He said staff recommended approval.

Kevin Kelleher, resident, 5200 N.W. 26th Court, said he did not think Burger King would contribute much to making a vibrant, retail community. He said it would add more traffic to an already busy area. He said having an empty lot was not a reason to put just anything on it; he preferred to have something of value for the citizens of Margate.

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

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Dangervil, Yes; Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. Barasch, No; Mr. DeCristofaro, Yes. The motion passed with a 4-1 vote.

2C) **BA-16-16:** VARIANCE REQUEST FOR PERMISSION TO ALLOW A CHAIN FENCE AT THE DOG PARK AT THE TOSCANA LUXURY APARTMENTS LOCATED AT 3050 TOSCANA LANE WEST

Andrew Pinney gave a PowerPoint presentation. He noted that Section 3.14(16) of the Zoning Code read, "Chain link of other similar style fences shall not be permitted within any TOC zoning district." He showed an aerial of the property and the approved site plan for Toscana. He pointed out that the development was built to the TOC standard which was to have the building up front and the parking in the back. He pointed out the location of the dog park on the property and noted that it was hidden from public roadways because of its location on the back of the property. He said only the residents nearby in the development would see the fence.

Mr. Pinney summarized staff finding which were:

- the fence was not visible from any roads; and,
- a picket or decorative fence might pose a threat to animals; chain link would be more secure.

He said staff recommended approval.

Mr. Schweitzer commented that the dog park was a good idea.

Mr. DeCristofaro commented that he liked that they considered the health and safety of the animals.

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

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Dangervil, Yes; Mr. Rivadeneira, Yes; Mr. Schweitzer, Yes; Mr. Barasch, Yes; Mr. DeCristofaro, Yes. The motion passed with a 5-0 vote.

3) **GENERAL DISCUSSION**

There was no discussion.

There being no further business, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Mr. Edward DeCristofaro
Chair

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

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