



### City Commission

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## REGULAR MEETING OF THE BOARD OF ADJUSTMENT MINUTES

**Tuesday, January 3, 2017**

**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:

Benjamin J. Ziskal, AICP, CECD, Director of Economic Development

Timothy Finn, Senior Planner

Andrew Pinney, Associate Planner

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 7:52 p.m. on Tuesday, January 3, 2017. The Pledge of Allegiance was recited, followed by a roll call of the Board members.

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- 1) APPROVAL OF THE MINUTES FROM THE SEPTEMBER 6, 2016 BOARD OF ADJUSTMENT

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

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

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

- 2) NEW BUSINESS

- 2A) **BA-01-17** VARIANCE REQUEST FOR BUILDING HEIGHT TO EXCEED THE MAXIMUM ALLOWABLE HEIGHT OF 50 FEET FOR THE PROPOSED

### Economic Development Department

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TOWER VERTICLE EXPANSION AT NORTHWEST MEDICAL CENTER LOCATED AT 2801 NORTH STATE ROAD 7.

(TO BE COMPLETED)

- 2B) **BA-02-17:** VARIANCE REQUEST TO ALLOW ENCROACHMENT OF THE BUILDING SETBACK INTO THE ADDITIONAL SETBACK AREA FOR THE PROPOSED PARKING GARAGE FOR NORTHWEST MEDICAL CENTER LOCATED AT 2801 NORTH STATE ROAD 7.

(TO BE COMPLETED)

- 2C) **BA-03-17:** VARIANCE REQUEST FOR PERMISSION TO ALLOW A NEW GASOLINE SERVICE STATION WITHIN 1,000 FEET OF ANOTHER GASOLINE SERVICE STATION. PROPOSED LOCATION IS 5485 WEST ATLANTIC BOULEVARD.

Andrew Pinney advised that this variance and the next three variances were all related to Cumberland Farms. He proceeded with a PowerPoint presentation.

Mr. Pinney explained that Cumberland Farms was proposing to redevelop the existing Walgreens site at 5485 West Atlantic Boulevard. He pointed out the parcel on a site map. He said the petitioner planned to build a 4,960 square foot convenience store with six gasoline dispensing pumps. He said that several proposals previously had been brought before the Development Review Committee (DRC) on June 9, 2015; April 26, 2016; August 23, 2016; and November 22, 2016. He said that compromise between the petitioner and Staff had brought the current proposal as close as possible to Code for building a gas station use.

Mr. Pinney explained that the variance was for distance and he showed a close-up of the site plan and the exterior elevations of the project. He read the section of the Code [3.18(A)] that applied which said that no plot of ground should be used for a filling station which was within one thousand (1,000) feet, by direct airline measurement, of any other plot presently occupied as a filling station. He said the petitioner had a specific-purpose survey done which showed an exact airline measurement of 985.32 feet at the closest measurement between the two property lines. A more practical look at it from gas canopy to gas canopy showed it was about 1,100 feet he said. He provided a brief history noting that the City once had an abundance of gas stations that dominated its major intersections so it adopted the Code regulation to disperse the use. Thereafter, he said a State law was passed that required double-lined tanks and many independent gasoline service stations could not afford the cost and the City saw the closure of several service stations.

Mr. Pinney said Staff found that the request and its location met the intent of the Code and it recommended approval.

Mr. Dangervil commented that the negative impact on traffic needed to be considered on the main roads like State Road 7 and Atlantic Boulevard particularly during hurricane season.

Mr. DeCristofaro asked if the petitioner had a traffic study done.

Ben Ziskal interjected that the traffic impact was outside the scope of the item. He explained that the item still needed to go before the City Commission for approval of the project. He said Staff was recommending approval because the difference was only 15 feet and, if the variance was denied, the petitioner could proceed through the City and the County to have the property line changed to comply with the Code. He said Staff thought it was the more efficient and smarter way to proceed for this particular variance request. He said the recommendation might have been different if the building was on the property line or if there was not an alternative way to get around the Code.

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

**MOTION:** TO APPROVE

**ROLL CALL:** Mr Rivadeneira, Yes; Mr. Dangervil, No; Mr. Schweitzer, Yes; Mr. Barasch, No; Mr. DeCristofaro, Yes. The motion passed with a 3-2 vote.

2D) **BA-04-17:** VARIANCE REQUEST TO REDUCE THE BUILDING FRONTAGE BUILD-OUT FOR THE PROPOSED CUMBERLAND FARMS CONSTRUCTION LOCATED AT 5485 WEST ATLANTIC BOULEVARD.

Andrew Pinney advised that section 9.7(H) of the Code required frontage build-out of 70 percent in the TOC-C and TOC-G districts. He showed the site plan and said the only credits for this project were from the convenience store and the wall connecting the dumpster because it was located on the build-to line. He said the gas canopy did not count towards the 32 percent frontage build-out.

Mr. Pinney explained that gasoline service stations would likely always struggle to meet the Code requirement because their functions primarily were done outdoors. He noted that the petitioner had made a good attempt by extending the frontage as much as possible with a wall connecting to the dumpster enclosure, providing enhanced streetscape by presenting a faux two-story gas station, and providing pedestrian amenities including the urban greenway, the pedestrian zone around the entrances, and outdoor seating/dining.

He said Staff's findings were: operational characteristics being primarily outdoors; design elements incorporated into the fourth design; and, the pedestrian amenities being provided. Mr. Pinney said Staff recommended approval.

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

**MOTION:** TO APPROVE

**ROLL CALL:** Mr. Rivadeneira, Yes; Mr. Dangervil, No; Mr. Schweitzer, Yes; Mr. Barasch, No; Mr. DeCristofaro, Yes. The motion passed with a 3-2 vote.

- 2E) **BA-05-17:** VARIANCE REQUEST TO DEVIATE FROM THE REQUIRED LANDSCAPING TREE DISTANCE ON THE STREET FRONTAGE FOR THE PROPOSED CUMBERLAND FARMS CONSTRUCTION LOCATED AT 5485 WEST ATLANTIC BOULEVARD.

Andrew Pinney advised that Code required redevelopments such as this one to provide an eight-foot wide landscaped buffer between the travel lanes of the road and a new 12-foot wide sidewalk, and within the planting strip, one shade tree planted for every 30 lineal feet of frontage. He showed the petitioner's landscaping plan which showed the areas where they were seeking relief in the spacing of the trees, rather than with the quantity of the trees. He said the largest gap was up to 70 feet versus the 30 feet required by Code. He said the reason for the spacing variance was to enhance site lines so that passing traffic could see and identify the building better. He said Staff understood their desire to have people see their two-story building; however, the intent of the Code was to provide additional beauty to the streetscape as well as shade and a physical buffer for safety.

Mr. Pinney said Staff was recommending approval subject to the condition that the petitioner provide an architecturally pleasing arbor structure over the 12-foot wide, multi-modal path along Atlantic Boulevard. He showed slides of two examples of what the City would like to see to fill in the large gaps between the trees.

Matthew Scott, Tripp Scott law firm, representing Cumberland Farms, said they were not opposed to the idea of the condition but they hoped the condition could be limited to the area between the sidewalk and the outdoor seating area instead of along the entire length of the over 100-foot sidewalk area. He said the reasons for the variance was to allow for visibility of the building and security from the street so that police and others driving by could see customers using the gas services. He said putting a trellis over the entire frontage would defeat the purpose of their requesting the variance. He said they hoped for a compromise where a trellis would be provided over the outdoor seating area which would create connectivity and invite more people from the sidewalk to the outdoor seating area. Mr. Scott acknowledged that they were requesting variances and he pointed out some of the things they were providing which included a 12-foot sidewalk whereas the rest of the shopping center did not have them, sidewalks that were setback ten feet from the road while the existing sidewalk was not setback, and an outdoor seating on Atlantic Boulevard. He said requiring a trellis along the entirety of the frontage would defeat the variance they were requesting. He also pointed out that they were providing the required number of trees; they were asking only to space them differently.

Mr. Pinney commented that the trellis examples he provided would not block the roof and he did not think a trellis would be obtrusive. He said he thought it would be easier to look through than a shade tree canopy. He said he understood the significant cost for the entire 150 foot run but he did not think it would block visibility.

Mr. Scott asked for clarification as to whether Staff was requesting the trellis feature for only those areas where there were gaps for which he said they could agree. Mr. Pinney asked him to consider a compromise where the trellis would be provided from the outer edge of both gaps leading into the outdoor seating area. Mr. Scott said they were happy with that recommendation.

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

**MOTION:** TO APPROVE WITH THE AGREED UPON TRELLIS CONDITION

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

2F) **BA-06-17:** VARIANCE REQUEST TO ALLOW FOR A BOLLARDS CONFIGURATION IN LIEU OF A STEP-UP FOR THE PROPOSED CUMBERLAND FARMS CONSTRUCTION LOCATED AT 5485 WEST ATLANTIC BOULEVARD.

Andrew Pinney advised that the Code required the use of wheelstops for each parking stall directly abutting a sidewalk that was less than seven feet wide and was not elevated at least six inches higher than the abutting parking spaces, and when any parking space was directly abutting an outdoor seating area, walkway café, wall, or any utility infrastructure located above ground. He showed the site plan that showed the location of where the petitioner proposed placement of the bollards. He said the elevation of the bollards showed that the concrete parking space was at grade of the sidewalk in front of the store so there would be no vertical separation between parking space and sidewalk. He pointed out the location of the bollards on the plan noting that they averaged about one and one-half or two bollards per space.

Mr. Pinney said that Staff findings were that bollards would provide enhanced safety from over speed vehicles and would eliminate potential tripping hazards from grade or elevation changes. He said Staff recommended approval.

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

**MOTION:** TO APPROVE

Mr. Schweitzer commented that this request was similar to what was done for the Wawa proposal. He said bollards were a better option because they were eliminated tripping and provided better safety by preventing cars from hitting pedestrians or the store.

**ROLL CALL:** Mr Rivadeneira, Yes; Mr. Dangervil, 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 8:31 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Edward DeCristofaro, Chair