



CITY OF MARGATE

BOARD OF ADJUSTMENT

October 4, 2007
Monday, 7:30 PM
Municipal Building

PRESENT:

Erika Loewenthal, Chair
Richard Popovic, Secretary
Dr. Frederick A. Rahe

ALSO PRESENT:

Ben Ziskal, City Planner
Andrew Pinney, Associate City Planner
Petitioners

ABSENT:

Alexander Perri, Vice Chair

The regular meeting of the Board of Adjustment, having been properly noticed, was called to order by Chair Erika Loewenthal at 7:32 PM, on Thursday, October 4, 2007. The Pledge of Allegiance followed. A roll call of the Board members was taken.

There were no communications.

Mrs. Loewenthal said that all who will testify on any subject are required to be sworn-in. She asked those who intended to speak to please rise so the secretary may deliver the oath. The secretary proceeded to administer the oath.

1. **APPROVAL OF MINUTES.**

The following motion was made by Mr. Popovic, seconded by Dr. Rahe:

MOTION: TO APPROVE THE MINUTES OF THE SEPTEMBER 6, 2007, MEETING.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

2. **PUBLIC HEARING NOTICE NO. BA-16-2007 – Stuart Auerbach** for Royal Palm Plaza Properties, Ltd. – Permission to maintain a minimum horizontal illuminance level of 0.7 foot-candle (fc) for a shopping center containing businesses operating after 6:00 p.m. Code requires that for all non-residential facilities with businesses operating after 6:00 p.m. the minimum horizontal illuminance level shall be 2.0 fc. Section of Zoning Code, Article XVIII, Section 18.2. Permission to provide lighting for the Royal Sun Plaza shopping center with a maximum uniformity ratio (max/min) of 24:1. Code requires that for all nonresidential facilities, the maximum uniformity ratio (max/min) for lighting levels shall be 10:1. Section of Zoning Code, Article XVIII, Section 18.2. Lots 5 through 10 of Block M, and Lots 5 through 10 of Block N, Gateway Mile, Plat Book 63 Page 15 of the Public Records of Broward County, Florida. Located at 7432-7462 Royal Palm Boulevard, Margate, Florida. B-1 Zoning.

Ben Ziskal, City Planner explained that this request was part of an upgrade to the existing lighting as required by code. Mr. Ziskal stated that the City Commission passed an ordinance in 2005, which required all non-residential properties to upgrade their lighting to obtain a minimum of 2.0 foot-candles for any business opened after 7:00 PM. However, that ordinance was amended to give properties extensions with the amortization period now extending into March of 2008 for the plans to be submitted to the city. Mr. Ziskal said that the petitioner has worked with staff to submit the plans and upgrade the existing poles and facilities. He further stated that the current plans met the required illuminance for 80% of the center and that the 20% were those areas were less traveled by pedestrians and vehicles which were areas towards the rear and the sides of the shopping center. Staff recommended approval.

Stuart Auerbach, 763 41st Street, Miami, FL reiterated Mr. Ziskal's statement and concurred with staff's recommendation.

The following motion was made by Mr. Popovic, seconded by Dr. Rahe:

There was no further discussion.

MOTION: TO APPROVE THE PETITIONER'S REQUEST.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

The following motion was made by Dr. Rahe, seconded by Mr. Popovic:

SECONDARY MOTION: TO ACCEPT THE DECISION OF THIS BOARD SINCE IT IS NOT A DETRIMENT TO THE CITY AND WOULD BE A HARDSHIP TO THE PETITIONER.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

3. **PUBLIC HEARING NOTICE NO. BA-17-2007 – Alfredo Rivera** for El Zocalo Restaurant, Inc. – Permission to waive distance restrictions for sale of beer, wine and liquor (4-COP), in an establishment located two hundred fifty (250) feet from an existing school. Code provides that no liquor license approval or beer and wine license for consumption on the premises shall be issued where the place of business designated in the application therefore is within one thousand (1,000) feet of a house of worship or a public or private school, or child care center. Section of Code, Appendix A, Section 3.22(VIII)(A). Parcel "A", Rainbow Village, according to the plat thereof, as recorded in Plat Book 85, page 16, of the Public Records of Broward County, Florida. Located at 1436 N. State Road 7. B-3 Zoning.

Mr. Ziskal stated that this business was located two hundred fifty (250') feet from the Hebrew Academy. Mr. Ziskal further stated that the intent of the code was to provide safety and protection for children and patrons of schools; churches and day cares as well as not to hinder incoming traffic for these facilities. Staff found that the business was directly across a local street from the school which would create a significant nuisance to both the incoming traffic and the children at the school. Staff recommended denial.

Alfredo Rivera, 31 W. Palm Drive stated that the restaurant did not open until 3:00 PM and that the children would not be in school. Mr. Rivera also stated that beer, wine and/or liquor would go better with

Mexican cuisine. He further stated that if he was not permitted to sell beer, wine and liquor that he would love his clientele.

Mr. Popovic wanted to know how long the petitioner owned the restaurant. Mr. Rivera replied that he purchased it three months ago but that the business was there for a while. Mr. Popovic asked if the restaurant was opened and Mr. Rivera stated that he was in the process of opening the restaurant. Mr. Popovic asked the location of the restaurant and wanted to know if breakfast, lunch and dinner was served. Mr. Rivera replied that the business was located behind Dunkin Donuts on the corner of 15th Street and that lunch and dinner would be served.

Dr. Rahe asked if there were time restrictions for alcohol licenses. Mr. Ziskal responded that the code allowed for all hours according to Florida State Statute. He further stated that the board could grant the variance with a condition regarding the sell of alcoholic beverages before a certain time. Mr. Ziskal added that staff's recommendation was based on children attending recess. He further added that the patrons of the restaurant had the ability to walk across the street outside the gates of the school and the children would be able to see the activity at the bar in the restaurant. Dr. Rahe asked Mr. Ziskal if staff would work with the petitioner if the variance was granted with a condition. Mr. Ziskal responded that staff would accept the board's decision as long as the petitioner understood that failure to comply with the decision would result in the loss of his allocation.

The following motion was made by Dr. Rahe, seconded by Mr. Popovic:

MOTION: TO APPROVE THE PETITIONER'S REQUEST WITH THE LIMITATION OF NO SALE OF ALCOHOLIC BEVERAGES BEFORE 5:00 PM

Mrs. Loewenthal asked Mr. Rivera if he understood the motion that he could not sell before 5:00 PM. Mr. Rivera asked if the time could be moved to 3:00 PM and Dr. Rahe stated that 4:00 PM was a middle ground.

The following motion was amended by Dr. Rahe, seconded by Mr. Popovic:

AMENDED MOTION: TO APPROVE THE PETITIONER'S REQUEST WITH THE STIPULATION OF NO SALE OF BEER, WINE AND LIQUOR BEFORE 4:00 PM

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

The following motion was made by Dr. Rahe, seconded by Mr. Popovic:

SECONDARY MOTION: TO ACCEPT THE DECISION OF THIS BOARD SINCE IT IS NOT A DETRIMENT TO THE CITY AND WOULD BE A HARDSHIP TO THE PETITIONER.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

4. **PUBLIC HEARING NOTICE NO. BA-18-2007 – City of Margate** for Coral Gate Park – Permission to install and maintain parking stalls that are eighteen (18) feet in length. Code provides that all parking stalls shall be nineteen (19) feet in length. Section of Zoning Code, Article XVIII, Section 18.2 Table P.

Permission to maintain a minimum horizontal illuminance level of 1.0 foot-candles (fc) for a park that will be open to the public after 6:00 p.m. Code requires that for all non-residential facilities with businesses operating after 6:00 p.m. the minimum horizontal illuminance level shall be 2.0 fc. Section of Zoning Code, Article VIII, Section 18.2 (E)(2) and Table 1. Permission to install and maintain lighting fixtures with two hundred fifty (250) watts, to be mounted at a height of twenty (20) feet six (6) inches. Code requires that all lighting fixtures containing a lamp wattage of two hundred fifty (250) or greater, be mounted at a minimum height of twenty five (25) feet. Section of Zoning Code, Article XVIII, Section 18.2 (E) Table 4.

Permission to install and maintain a structure three (3) feet from a plot line and residentially zoned property. Code provides that no building or roofed portion of any structure shall be located within ten (10) feet of any plot line, and that structure shall be located within twenty (20) feet of any residentially zoned property. Section of Zoning Code, Article XV1/4, Section 15 ¼.8 (B) and (C). A portion of Tract 64, Block 90 of the Palm Beach Farms Plat No. 3, as recorded in Plat Book 2, Page 45 through 54, of the Public Records of Palm Beach County, Florida. Located at 5650 Coral Gate Boulevard. S-1 Zoning.

Mr. Ziskal stated that he would separate the variance into five parts and asked the board to make one vote for the five parts. Mr. Ziskal explained that the first issue was to replace the outdated restroom facilities with a new restroom facility in its current location. Code required that any structure be a minimum of ten feet from any plot line and that it be a minimum of twenty feet from any residential plot line.

Mr. Ziskal explained that the second and third issue was lighting requirement for the shopping center. Code required two hundred fifty (250) watt bulbs be mounted at a minimum height of twenty-five (25) feet. Mr. Ziskal further explained that the request was to mount the lighting fixtures at twenty (20) feet six (6), which is four and one half (4½) feet lower than required by code, to prevent glare onto adjacent properties. He added that the park will open after 6:00 PM and as a result, Code required 2.0 foot-candles (fc); however, the petitioner requested to maintain 1.0 fc in a couple portions of the parking lot.

Mr. Ziskal said that the next issue was parking and that code required that all parking spots be a minimum of nineteen (19) feet long. However, this request was to maintain stalls that are eighteen (18) feet long to achieve drive aisles and maximize the green space by adding one (1) foot to adjacent to tennis courts.

Mr. Ziskal stated that the last issue was the installation of a fence along the residential property line. Mr. Ziskal explained that Code required that any fence be a maximum of six (6) feet in height. However, the City requested to maintain an eight (8) feet chain link fence to prevent frisbees, footballs and the like from crossing over into residential property. Staff recommended approval for all issues.

Mrs. Loewenthal asked if there was night playing at the park. Mr. Ziskal responded that the basketball courts would be lit along with one of the tennis courts, but that there was no baseball.

Dr. Rahe asked if there was a fence there now and Mr. Ziskal stated that there was a four (4) feet fence previously.

Virginia Stevens, 6716 Coral Lake Drive asked if there was a shut off time for the lights and the basketball courts. Mr. Ziskal responded that all lighting systems in the parks are on timers and that when the park closes the timer will dim the lights. However, certain portions of lighting will be maintained in the parking areas for safety issues, as recommended by the police department, for non-residential properties. Ms. Stevens asked at what time would the park close and Mr. Ziskal responded 10:00 PM. He also added that the police department patrols all parks.

Craig Diehl, 6712 Coral Lake Drive wanted to know if there was a curfew for the basketball courts and where would the parking be located. Mr. Ziskal showed Mr. Diehl the parking plans. Ms. Stevens asked if soccer would still be played in the park. Mr. Ziskal responded yes. He added that the renovation to the park would provide a state of the art park for the residents.

The following motion was made by Mr. Popovic, seconded by Dr. Rahe:

There was no further discussion.

MOTION: TO APPROVE THE PETITIONER'S REQUEST.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Aye; Mr. Perri, Absent.
The motion was approved 3-0.

The following motion was made by Dr. Rahe, seconded by Mr. Popovic:

SECONDARY MOTION: TO ACCEPT THE DECISION OF THIS BOARD SINCE IT IS NOT A
DETRIMENT TO THE CITY AND WOULD BE A HARDSHIP TO THE
PETITIONER.

ROLL CALL: Mr. Popovic, Aye; Dr. Rahe, Aye; Mrs. Loewenthal, Yes; Mr. Perri, Absent.
The motion was approved 3-0.

5. **GENERAL DISCUSSION.**

There being no further business, the meeting adjourned at 8:05 PM.

Respectfully submitted,

Prepared by: Tiffany R. Steele

Erika Loewenthal
Chair

cc: City Commission, City Manager, City Attorney, City Clerk, Chief of Police, Fire Chief, Building Official, Director of DEES, City Planner, Associate Planner, Engineer, IT, Board of Adjustment, Petitioner(s)