



City Commission

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REGULAR MEETING OF THE BOARD OF ADJUSTMENT MINUTES

Tuesday, November 7, 2017

7:00 PM

City of Margate
Municipal Building

PRESENT:

Chad Dangervil, Chair
Karl Artner, Vice Chair
Julianne Lore, Secretary
Fred Schweitzer
Patrick Laffey

ALSO PRESENT:

Julie F. Klahr, law offices of Goren, Cherof, Doody & Erzol
Reddy Chitepu, Acting Director of Economic Development and Director of D.E.E.S
Andrew Pinney, Senior Planner
Andy Dietz, Associate Planner
Robert Solana, McNeill Signs

The regular meeting of the Board of Adjustment of the City of Margate, having been properly noticed, was called to order by Chair Chad Dangervil at 7:01 p.m. on Tuesday, November 7, 2017. The Pledge of Allegiance was recited followed by a roll call of the Board members.

ID 2017-708

- 1A) APPROVAL OF THE MINUTES FROM THE BOARD OF ADJUSTMENT MEETING ON OCTOBER 3, 2017

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

MOTION: SO MOVE TO APPROVE AS WRITTEN

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Yes; Ms. Lore, Yes; Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed with a 5-0 vote.

- 2) **NEW BUSINESS**

ID 2017-532

- 2A) **BA-16-17** VARIANCE REQUEST FOR PERMISSION TO BUILD AN UNDERGROUND SWIMMING POOL AND DECK ENTIRELY WITHIN AN FPL UTILITY EASEMENT.

Economic Development Department

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Andrew Pinney advised that the petitioner had failed to post the required public hearing sign. He respectfully asked the Board to have the item tabled to the December meeting.

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

MOTION: TO TABLE UNTIL THE DECEMBER 5, 2017 MEETING

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Yes; Ms. Lore, Yes;
Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed
with a 5-0 vote.

ID 2017-692

- 2B) **BA-20-17** VARIANCE REQUEST FOR PERMISSION TO ERECT NINE WALL SIGNS ON A BUILDING SIDE WITH ROADWAY FRONTAGE FOR ARRIGO MARGATE LOCATED AT 2250 NORTH STATE ROAD 7.

Andy Dietz led with a PowerPoint presentation and showed an aerial view of the property on the Monodpad. He showed the signage plan for the car dealership, noting that the proposed nine signs would all be on the west façade and they would display the dealership's various brands. He said the applicant proposed nine signs but the Code only allowed for one main identification wall sign. He said the total sign face area exceeded the amount that would have been allowed for one wall sign. He said the applicant proposed nine signs totaling 386 square feet while the Sign Code only allowed 331 square feet, which included the Arrigo dealership brand name, each of the brands of the cars they sold, and two service station entrance signs.

Mr. Dietz said there was no criterion in the Sign Code for a large automobile dealership use. He said the Sign Code was written for general commercial retail uses within the Transit Oriented Corridor (TOC). He said the applicant was proposing signage beyond the one sign allowed and of greater square footage than allowed by the Code. In the past, he said the Board has awarded approval only under a special condition that would create a need for larger signage than was otherwise allowed for by Code. He said the Code was written with specific setbacks and uses in mind. He said staff had found that the building setback was approximately 125 square feet which was fairly typical for the corridor.

Mr. Dietz said staff recommended that the Board approve the signs on the condition that their total square footage was reduced to what the Code would allow for the one sign. Also, staff found that the second Arrigo sign was excessive and the sign proposal already had a primary main identification sign for the dealership on the top of the entrance.

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

MOTION: TO ACCEPT

All those speaking on the item were duly sworn. City Attorney Klahr asked Mr. Dietz to confirm that he agreed to the presentation he gave under oath as being sworn. Mr. Dietz replied, "Yes, I do."

Robert Solana, McNeill Signs, said that they agreed with the removal of the second Arrigo sign and that they would meet the 331 square foot requirement.

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Yes; Ms. Lore, Yes;
Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed
with a 5-0 vote.

ID 2017-703

2C) DISCUSSION OF BYLAWS FOR THE BOARD OF ADJUSTMENT

Chair Dangervil asked the City Attorney for her recommendation on the best way to proceed.

Julie Klahr, law office of Goren, Cherof, Doody & Ezrol, introduced herself and said their firm was serving in the capacity of interim City Attorney. She said the City Code provided that the City Commission would adopt certain procedures and requirements for the Board to follow in carrying out their required responsibilities as delegated to them by the City Commission. She said the Code also provided certain opportunity for them to adopt rules of procedure as to how the Board would regulate and guide their meeting. She said the whole of what the Board did and the authority delegated to them was provided for by the City Commission.

Attorney Klahr commented that the prior City Attorney Doug Gonzales had discussed bylaws at their last meeting and he subsequently provided some proposed bylaws to them. She said, however, that bylaws would not apply to them because they were not a corporate entity. She said the Code of Ordinances that had been adopted by the City Commission were the rules by which the Board would govern itself, and any additional procedures that the Board might choose to adopt would regulate how it would conduct its meeting. She said the examples they had been provided were from other jurisdictions, many not in the state of Florida. She said the Board members might find information contained in them helpful in compiling their rules of procedure. She said that most of the things she saw were already in the City's Code or would be things that should be adopted by the City Commission.

Attorney Klahr said general rules of procedure would include such things as how the board members would govern the meeting, how they would regulate how the meetings would be conducted, how many times they would meet, whether they would be subject to Robert's Rules, etc. She said the prior rules that were adopted by the Planning and Zoning Board might provide some guidance.

Mr. Dangervil asked whether the Board could structure the guidelines of the bylaws. Attorney Klahr responded that there were already certain procedures set forth in the City Code that complied with some requirements that were provided for statutorily. She said they could not do something different that would contradict what had already been provided for in the Code, but they could supplement it with discussing how they would regulate themselves as to how they would conduct their meeting. She said some examples might be the order the board members would speak, how often they would meet, the meeting time, or how long the meetings would run; all things that were more procedural in nature.

Mr. Schweitzer said that he thought that they had been operating under Robert's Rules and the rules set by the City and that so far they had worked real well. He said the meeting time had

been set by the City, as well as when the meeting was held. He said they could not set a rule about when they would hold a meeting because that was determined by the City based on need. He commented that the current operating rules were sufficient.

Mr. Artner asked Attorney Klahr for suggestions based on the type of rules in place in other cities. He referenced the sample copies that were provided from other cities but he said he did not find them helpful. Attorney Klahr suggested they look at the rules that were adopted by the Planning and Zoning Board many years ago. She said the rules usually included items having to do with how they would conduct the hearings, i.e., would they want staff to go first, and then have the applicant speak, and the general order of the meeting. She said that sometimes there were rules of civility that were put in place when board members were not getting along, such as one person would speak at a time and that the Chair must recognize the board member before they spoke. She said it did not seem to be an issue here but if there was something that they wanted to spell out, this would be the time to do it, noting that they were not precluded from making changes in the future. Mr. Artner said it would be a good idea to be proactive rather than wait for an incident and then change the rules. He said it would also be helpful for new board members.

Reddy Chitepu said the staff could look at the Rules of Order and Procedure that were on the books for Planning and Zoning. He said the rules were outdated and the same item was going to be discussed at the Planning and Zoning meeting that night. He said he thought they covered what the Board was looking for. He said the rules could be modified to reflect the Board of Adjustment and they would be brought back as a draft at the next meeting, and they could adopt them if they wished. Mr. Artner asked if they would be able to provide some input before the meeting. Mr. Chitepu said the rules would be emailed to them and the board members could send their comments to Rita Rodi so they could be incorporated into the draft that would be included on the December meeting agenda.

ID 2017-704

2D) DISCUSSION ON MEETING TIME FOR BOARD OF ADJUSTMENT MEETINGS

Chair Dangervil asked the Board for their opinions on the meeting time. Mr. Schweitzer commented that he thought the time had been set by the City Commission and that it was in the Code that the Board of Adjustment meeting followed the Planning and Zoning Board meeting. He said the Planning and Zoning Board meeting were lengthy while the Board of Adjustment meetings were short so they were asking if it were possible to switch the order of the meetings so that the Board of Adjustment could have the 7:00 p.m. time slot.

Mr. Dangervil said the meeting time should relate to their daily schedules because board members might have other responsibilities. He said he thought the City Commission might be flexible on it.

Andrew Pinney said that the City Commission approved an ordinance at the October 18, 2017 meeting that granted a lot of flexibility to the boards on the scheduling of their meetings. He said the Code used to be strict in that it read that the Board of Adjustment would not convene later than 20 minutes subsequent to the time the Planning and Board adjourned. He said that language had been stricken from the Code, and it now contained language that read, "Meetings of the Board of Adjustment shall be held once per month unless canceled by the Chair for

lack of agenda items. Meetings of the Board of Adjustment may be held at the call of the Chair and such other times as the Board may determine. The Board may, by the adoption of its own rules and regulations consistent with the provisions of this division, establish a regular meeting night and rules for the calling of the regular and special meetings of the Board. Meetings shall be held in the Commission Chambers of the City Hall of the City of Margate unless said chambers are unavailable." He said the Board had more flexibility now so they could set their schedule on whatever night of the week, week of the month, time, etc.

Reddy Chitepu said the City Commission also suggested that either the Board of Adjustment or the Planning and Zoning Board meeting could start at 6:30 p.m. instead of 7:00 p.m., if they wished. He said a 5-0 consensus would on the time change would be needed.

Mr. Pinney said that when he started at the City, Planning and Zoning and Board of Adjustment meetings were on separate nights, and he thought they might have been combined to either reduce overtime or as a result of the four day work week. He said if they were considering holding their meeting on a different night of the week, they needed to be mindful that they might encounter holiday conflicts on Mondays and Thursdays where they might have to juggle schedules. Under the current Tuesday night schedule, the first Tuesday in August was National Night Out and the City Commission would hold its meeting on Tuesday July 3rd, so meetings on both those dates would need to change.

Mr. Artner said that in general holding the meetings on the same day would work because the Board of Adjustment meetings were usually very short. He said it would be great if everyone could be available at 6:30 p.m. He said he had spoken with members of the Board of Adjustment and several of the Planning and Zoning Board members. He asked if they could generally establish that the Board of Adjustment meeting could start at 6:30 p.m., and schedule the Planning and Zoning Board for 7:00 p.m., but with the understanding that the start of their meeting could go be delayed by 10-15 minutes. He said it would be beneficial to the Board of Adjustment members because they would not have to wait when the Planning and Zoning Board meetings ran long, and the Planning and Zoning Board could still hold their meetings at 7:00 p.m., or close to that time. He asked if those times could become a rule unless there were a lot of items on the Board of Adjustment which would require a short notice schedule change.

Mr. Schweitzer said he had no problem with 6:30 p.m., and meeting on the first Tuesday of the month, noting that it had worked well for many years.

Both Ms. Lore and Mr. Laffey said they were in agreement with the 6:30 p.m. schedule.

Chair Dangervil said that it was somewhat of a problem due to his work schedule but he would be willing to adjust his schedule for their monthly meeting.

After confirming that there were no pending applications for the 7:00 p.m. schedule, Mr. Schweitzer made the following motion, seconded by Ms. Lore:

MOTION: BOARD OF ADJUSTMENT MEETINGS WOULD BE HELD ON THE FIRST TUESDAY OF THE MONTH AT 6:30 P.M.

Mr. Artner asked whether the Planning and Zoning Board should be consulted on the schedule change prior to their voting. Attorney Klahr said they would be able to reconsider it at the next meeting if necessary.

Richard Zucchini, Planning and Zoning board member, commented that the traffic around Atlantic Boulevard between 6-6:30 p.m. was very difficult. He commented that he really enjoyed having both meetings on the same evening because some of their issues were interrelated. He said he was in favor of having both meetings the same night but that 6:30 p.m., might be difficult for some people to make because of traffic. He said he did not mind staying later as he enjoyed listening to the Board of Adjustment proceedings.

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Yes; Ms. Lore, Yes;
Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed
with a 5-0 vote.

3) **GENERAL DISCUSSION**

Mr. Schweitzer wished everyone a Happy Thanksgiving.

Chair Dangervil commented that he thought it would be a good idea for the board members to exchange contact information so that he could contact them concerning changes in the meeting schedule. Attorney Klahr recommended that the communications be coordinated through staff so as to avoid any Sunshine Law violations. Mr. Dangervil said he was under the impression that if a meeting were to be cancelled, it would be unfair to do so without discussing it first with the other board members. She said that would be something they could address in their rules. She said the Chair generally had a certain amount of discretion and latitude in coordination with staff to cancel a meeting if there was nothing on the agenda. She said that while there were certain scheduling things he could discuss under the Sunshine Law, it became a little difficult to moderate and ensure that he would be protected. She said staff could better coordinate with the Chair and communicate with the board members. She said them having each other's contact information was not the issue; the issue would be that the Chair could receive phone calls and emails but they [board members] should be responding to staff and not to one another. Mr. Schweitzer commented that under the Sunshine Law the board members were not allowed to discuss meeting items amongst themselves prior to the meeting. He said they needed to contact staff. Attorney Klahr agreed and noted that scheduling was not one of the issues. Mr. Dangervil said he was speaking about scheduling. He said, for example, if a meeting time had to be changed, and staff was not able to reach the board members, maybe he could try to reach them. Mr. Schweitzer responded that Rita Rodi had been getting ahold of all of them. Attorney Klahr stated that it was better to have staff coordinate it.

On the topic of rescheduling meetings on a monthly basis, Andrew Pinney advised that the City had recently adopted enhanced advertising requirements where the petitioner was required to send a mailing as well as post signs two weeks prior to the meeting. He said staff was required to provide the advertising details to the petitioner within one week of application submission. If a meeting date or time needed to be changed, he said it would work best if it were done at the meeting prior to the change so there would be sufficient time for staff and the applicant to react to the change. There was a short back and forth discussion about the enhanced advertising requirements. Mr. Artner commented that Rita Rodi was a good central point for scheduling.

Mr. Dangervil commented that working with staff on the scheduling would remain unchanged.

There being no further business, the meeting was adjourned at 7:33 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Chad Dangervil, Chair

DRAFT