



**REGULAR MEETING OF
THE BOARD OF ADJUSTMENT
MINUTES**

Tuesday, January 2, 2018

6:30 PM

City of Margate
Municipal Building

City Commission

Mayor Arlene R. Schwartz
Vice Mayor Anthony N. Caggiano
Lesa Peerman
Tommy Ruzzano
Joanne Simone

City Manager

Samuel A. May

Interim City Attorney

Goren, Cherof,
Doody & Ezrol, P.A.

City Clerk

Joseph J. Kavanagh

PRESENT:

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

ALSO PRESENT:

Julie F. Klahr, law offices of Goren, Cherof, Doody & Erzol, P.A.
Reddy Chitepu, Acting Director of Economic Development and Director of D.E.E.S
Andrew Pinney, Senior Planner
Michael Jones, Director, Parks and Recreation
Christian Pena, CPZ Architects, Inc.

ABSENT:

Fred Schweitzer

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 6:30 p.m. on Tuesday, January 2, 2018. The Pledge of Allegiance was recited followed by a roll call of the Board members.

ID 2017-810

- 1A) **APPROVAL OF THE MINUTES FROM THE BOARD OF ADJUSTMENT MEETING ON DECEMBER 5, 2017**

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

MOTION: SO MOVE TO APPROVE AS WRITTEN

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Absent; Ms. Lore, Yes; Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed with a 4-0 vote.

- 2) **NEW BUSINESS**

ID 2017-800

- 2A) **BA-01-18** VARIANCE REQUEST FOR PERMISSION TO CREATE AN OFF-STREET PARKING AREA WHICH ALLOWS DRIVERS TO BACK OUT

Economic Development Department

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INTO A PUBLIC RIGHT-OF-WAY AT DAVID PARK LOCATED AT 6199 N.W. 10th STREET

All those speaking on the item were duly sworn.

Andrew Pinney led with a PowerPoint presentation. He showed an aerial view of the subject property and the affected area and noted that it was located on the same parcel as Catherine Young Library, the Margate Senior Center, and the Parks and Recreation administrative offices. He explained that the reason for the variance was because the design for the parking conflicted with the Code. He read the section of the Code that applied: Section 23-6(A)(6) *"Backout parking, i.e., a parking lot design which forces vehicles to use a public right-of-way to maneuver into or out of a parking stall, is prohibited except for one-and two-family sites fronting on local streets. Driveways connecting same are considered to be one-way. This provision is not intended to regulate on-street parking."* He showed a slide of the overall site plan that was submitted and reviewed by the Development Review Committee (DRC) in September, 2017. He showed a zoomed in version which highlighted the proposed parking, the playground location, and the proposed traffic flow which he said would be one-way. He said it would have angled parking served by a one-way drive aisle. He showed another slide which depicted the property line in red and explained that the parcel was located on one side and the right-of-way was on the other side. He said the parking would be separated from the travel lanes by a proposed landscape buffer, but the Code conflict arose because, technically, one would be backing out of a parking space into a right-of-way. He said the proposed parking would function as well as typical off-street parking because the traffic flow was such that vehicles faced the travel lanes before entering them.

Mr. Pinney said the staff findings were as follows:

- the parking design provided a safe and convenient route to the playground;
- the size and location of the existing playground limited space for adjacent parking; and,
- the intent of the Code restriction was to maximize safety. He explained that the design met the intent of Code in three ways: the parking lot was one-way; it provided a landscape buffer from the parking area and the travel lanes; and it required vehicles to face forward in the intersecting travel lanes before they entered. He said staff recommended approval of the application.

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

MOTION: TO APPROVE

Public Comment:

Colleen Neubauer, 1013 N.W. 62nd Avenue, said she had been a Margate resident since 1990. She said the location of the proposed request was in front of her home and it was on 62nd Avenue, not on N.W.10th Street. She said she purchased her home mostly because of the beautiful park that was across the street and that for 27 years she had enjoyed watching families picnic, play, and gather in the park. She said she liked walking out of her home and seeing grass, not concrete. She said she had called [the City] so many times over the past 27 years about cars speeding and racing down her street, but the City found precedence to install speed bumps on East River Drive but none around the playground and that was a problem to her. She said there were only a few times a month where people had a need to park on N.W.

62nd Avenue. She said she counted the number of parking spots on the block proposed for additional parking and she reported the following:

- approximately 83 parking spaces and 5 handicap spaces from 62nd Avenue to N.W. 10th Street, from the library to the Senior Center;
- 3 handicap spaces and a large pull-in/drop-off area for the buses in front of the Senior Center;
- approximately 31 parking spaces and 4 handicap spaces at the Community Center;
- there were 114 parking spaces and 12 handicap spaces in total.

Ms. Neubauer said she did not understand why parking spaces needed to be placed in the fourth corner of the block as it was a grassy playground area in front of her home where children played. She asked whether the engineers who designed the parking considered the effect on property values. She said she bought the home because of the park and she had a problem with parking spaces being put in. She said she enjoyed having her morning tea while sitting in the front of her house watching the children play. She said the area was dangerous enough with cars speeding down the road and having that grass buffer was taking away play space. She said on any given day, especially after school, there were children who used that entire area to play. She said families were now picnicking in the park since the City made the recent improvements. She asked the Board to not consider the variance request.

Boyd Haynes, 1009 N.W. 62nd Avenue, said he was a neighbor of Colleen Neubauer and had known her for 27 years. He said he used to play football in the right-of-way and kids still played football in the right-of-way. He said the parking would take away their football area. He commented that the landscape buffer would not be a mitigating factor and provide safety because a car had driven through both his and Ms. Neubauer's yards destroying trees and hitting his mother's truck. He said the parking was already bad on the street and that was not being addressed even though they had called about it numerous times. He said he had emailed Commissioner Ruzzano about the lack of parking signs or efforts to mitigate the speed on the street where kids played. He said the addition of more parking would cause more confusion on the street. He said the police will drive by but they do not get out of their cars. He said if the City was concerned about safety, the speed bumps would be in front of the park and not on other streets. He questioned how the additional parking spaces benefited the community, and also whether the parking problem on the street would be addressed.

Mr. Dangervil responded that the Board could not address the parking and speed mitigation. Mr. Haynes said the addition of a curb and a landscape barrier would not provide safety for the kids.

Mr. Artner told Mr. Haynes that the issues he had needed to brought to the City Commission because the Board only had authority to rule on the subject variance. He said the comments made about safety had to do with the parking, not the speeding, noting that they were two different issues. Mr. Haynes said that the City indicated that the landscape barrier would mitigate and provide safety for the children which he insisted that it would not do based on his personal experience; he suggested looking at the police report.

Chair Dangervil sought to clarify Mr. Haynes comments. Mr. Haynes asked Mr. Dangervil how long he had been an engineer or involved in construction, or whether he was an architect or landscape designer which prompted some cross conversation.

Attorney Julie Klahr, representative from Interim City Attorney Goren, Cherof, Doody & Erzol, P.A., advised that only one person should speak at a time.

Chair Dangervil advised Mr. Haynes that he should bring his concerns to the City Commission. He said the discussion that day had to do with the parking spaces that were proposed to be built in front of the play area. He said the Board could not discuss building ramps or stoppers on the street. Mr. Artner advised Mr. Haynes to come to the next City Commission meeting that was scheduled to be held on January 24, 2018 where he could bring his concerns to them under Public Comments. He explained that the Board of Adjustment did not have the authority to help him with his issues concerning speeding and parking on the street; only the City Commission had the authority.

Ms. Neubauer asked the purpose of the Board of Adjustment meeting. Chair Dangervil explained that the Board of Adjustment dealt with variances. He advised her to bring her concerns to the City Commission because they could make changes and override items discussed by the Board.

Ms. Neubauer asked why the address was shown as 10th Street instead of 62nd Avenue. Chair Dangervil said he was familiar with the park and he would address the question with staff.

Michelle Haynes, 1009 N.W. 62 Avenue, asked the purpose of the additional parking. She said there were empty parking spaces throughout the day. She said the only time there was overflow was at night when there was an event at the community/recreation center. She said she lived across the street and she knew exactly what went on there. She asked who determined there was a need for additional parking. She said Commissioner Ruzzano had told them that there was not supposed to be any parking on the street. She said her husband had looked at the drawings and he did not see any signage for "no parking," which she said they planned to bring up at the City Commission meeting. She said one of their concerns was that sometimes bottle necks were created when there were events because people did not know they could not park on their side of the street. She said it sometimes became a problem when a fire truck needed to go through. She said they did not want the streets to overflow with cars on the weekends or when there were events.

Ms. Haynes asked the exact purpose of the meeting and why they were there. She said they were under the impression that their concerns would be heard at the Board of Adjustment meeting. She said her husband was a disabled veteran but that he had been in commercial construction for over 25 years and he knew how to read drawings. She again asked the purpose of them coming to the Board meeting.

Reddy Chitepu said Michael Jones, Director of the Parks and Recreation Department would speak to them about the parking. In reference to the safety aspect of the speeding on 62nd Avenue, he said there was a process in the City to look at the mitigation of speeding on streets and the installation of speed bumps. He said he would give them his business card and he could provide them with the necessary paperwork and the process the City goes through before speed bumps were installed. He said if signage was recommended as part of the study, "no parking" signage on 62nd Avenue could be added as part of the project. Mr. Chitepu explained that the purpose of the Board meeting was to discuss encroachment into the right-of-way.

Ms. Haynes asked what their rights were as citizens because they would be directly impacted by the decision to build an unneeded parking lot across from their home. She said they were concerned that they would have issues backing out of their home. She reiterated that she and her husband had been in contact with Commissioner Ruzzano via email about this matter and she wanted to know what they could do to have their voices heard.

Mr. Chitepu responded that Mr. Jones would respond to their questions about the need. He said that the Development Review Committee had performed a technical and safety review of the document prior to signing off on the project. He said the reason the item was before the Board of Adjustment was because it had the authority to approve changes from the City Code. He said the requested change from the Code was to encroach into the right-of-way which the Code prohibited, but the Board of Adjustment had the authority to allow it.

Ms. Haynes responded that the Board of Adjustment also had the authority to not approve the change and it was inaccurate to be told to go to the City Commission. Mr. Artner responded that it was accurate in regards to the speeding issue. Mr. Chitepu concurred that the speeding issue could be addressed separately, and he reiterated that the Board of Adjustment was only looking at the encroachment into the right-of-way.

Ms. Neubauer asked to see the aerial view previously displayed on the Mondopad. She pointed out the location of her home, Mr. Haynes' home, and a one-lane road. She said this item impeded on the homes between the addresses of 1005 to 1013 and 1101 N.W. 62nd Avenue. She questioned the need for having the parking spaces.

Antonio Arserio, resident, asked whether the Parks and Recreation Department as the petitioner could appeal the decision to the City Commission if it were denied. An unidentified person in the audience responded, "Yes." He asked whether they [concerned residents] could formally appeal to the City Commission if the Board were to approve it. Chair Dangervil responded, "Yes." Mr. Arserio said he personally met with Michael Jones and had reviewed the Master Plan. He said his concern was that park space was being taken out, and the City was trying to gain park space rather than lose it.

Michael Jones, Director, Parks and Recreation, provided some history on the project. He said the project was being funded through the Community Redevelopment Agency (CRA) and they approved the budget and the improvements. He said Phase One of the project had been completed and it included improvements to the playground area. He said the overall design was done to attract more users. He said the community center was used on most weekends for special events. He said the number one complaint that Parks and Recreation staff received from the permit holders/renters was that there was not enough parking. He said they planned to install a steel picnic pavilion that could be rented for birthday parties, etc., as well as an improvement for a public restroom on the north side of the community center. He said there was an identified need for the additional parking. He said the property was currently an easement. He explained that the current Code would require that the parking be pushed five feet closer to the playground which he said was not ideal. He said there were some parking constraints and people were parking on the streets. As far as the speeding, he said he deferred to the traffic study and the police department to handle. He said it was an outer perimeter strip of grass that was being turned into paved parking for the park and facilities as a means to get the cars off the streets and allow parents to park closer to the playground. He said the open grass area in the center of the park was the designated play space. He said the meeting that

day was for a variance to allow back-out parking into the right-of-way versus pushing the parking closer to the sidewalk and playground. Mr. Jones said if the variance was denied by the Board of Adjustment, he would discuss whether to appeal it with the City Manager. He said this item should be heard and discussed at all levels, including the CRA and City Commission. He said the CRA was the funding source for the improvements and they would be meeting the following Tuesday, January 9, 2018 at 7:00 p.m. He said it would be the CRA that could decide to pull funding or to change the design of the project. Mr. Jones acknowledged that it was a challenge to fit any parking there and it was a problem during very specific times of the day and year. He said it was believed that the improvements to the playground and rentable infrastructure would attract more people on the weekends. He said the park had become more popular since the playground improvements had been made, and they anticipated that the additional improvements would draw more people and cars.

Michelle Haynes reiterated that she still did not see the need to take away space from the children for additional parking that would not be used. She said there was parking during the day, but the issues they were having had to do with the events because people got confused and they parked on the other side. She said if there were better signage, people would park right across, or in the library or at the Senior Center. She said children played on the grass and it made no sense to take space for additional parking that would only be used once in a while. She said she would attend every meeting possible and fight it as much as she could with her husband and neighbors.

Mr. Artner asked Ms. Haynes about children playing in the grassy area. She said that the kids played football. Mr. Artner said she had a conflicting position because she had complained about a safety issue caused by speeding cars but she was okay with allowing her children to play next to the street where the cars were speeding and there was no barrier or protection. He said he did not understand her logic. Ms. Haynes said he was incorrect; they were not her children and they could not control what other parents did with their children. She said something else she had not mentioned was that people parked there at night and they have called the police to report people doing drugs and other things they should not be doing. She said in addition to their other concerns, they would also have people parking in front of their homes. She said they had called the police many times in the past and they would continue to do so.

Chair Dangervil reiterated to Ms. Haynes that she should bring her concerns to the City Commission.

Colleen Neubauer said she had counted 114 parking spaces on N.W. 10th Street. She said the entire three block area was nothing but parking spaces along with 12 handicap spaces which she said was adequate parking. She said the matter was all about money because the City was planning to install a pavilion and bathrooms so that the City could generate income. She said the additional parking would provide better access to the parking pavilion so the City could make money. She said she would oppose it every step of the way.

Manny Lugo, 1129 East River Drive, said he lived one block from the park and the Board should listen to the residents and vote "no." He said there was plenty of parking and the concerns brought forth were legitimate.

Mr. Arserio suggested that the Board could vote "no" and have Mr. Jones go back to discuss whether they wanted to appeal it or not. He said he was familiar with the system and there were two options available. Currently, they were only getting the permission to do the construction while the CRA were the ones providing the funding. He said they should attend the CRA meeting, voice their concerns, and maybe the project would be cancelled. He said the variance would be there but they would not build on it. He said the other option would be to appeal the variance. He asked the Chair if his interpretation was correct. Chair Dangervil responded, "Yes."

Andrew Pinney said he had heard many questions that night about the Board of Adjustment and its purpose. He explained that the Board of Adjustment functioned as an appeal board for development. He said when a design was reviewed by the DRC and it was found to be in conflict with local Margate codes, and if a hardship was presented, the applicant could appear before the Board which had the authority to waive that specific Code provision. He said the item before them that night had to do with whether the angled parking spaces could be located as shown in the design so that the vehicle could cross the property line as it maneuvered. He said it was stated that 62nd Avenue would be choked down to one-way. He said that was not true; 62nd Avenue would remain with two travel lanes, one in each direction. He said the parking facility would be one-way only. He said when someone wanted to park, they would be pulling off the road to enter the parking spaces. He said the discussion that night was not to talk about speeding, speed bumps, or illegal parking. He said they were there to talk about whether a hardship existed and whether or not to allow a vehicle to utilize the proposed parking configuration.

Mr. Pinney re-read the applicable section of the Code from the beginning of his presentation. He said the Code provision was not intended to regulate on-street parking. He said it could be viewed as if the City were trying to move the parking spaces further from the travel lanes to alleviate any concerns of congestion. He said if the variance failed, there would be the option to put those parallel parking spaces in the swale of N.W. 62nd Avenue, but the landscape buffer which would have cathedral oaks and crape myrtles would be lost. It would result in having on-street parking which would bring traffic closer to the travel lanes and add congestion to N.W. 62nd Avenue instead of the off-street parking proposal. He said, for the record, the matter before them was whether or not to have parking spaces that could back-out across the property line.

Mr. Haynes said that when he read the agenda it said that everything given on the record that night could be appealed. He said Mr. Pinney had just said that the item was to eliminate the on-street parking. He asked Mr. Pinney to confirm that was what he had said. He asked whose hardship it was. He asked the Board for their qualifications and whether they were elected.

Attorney Klahr advised that the Board of Adjustment was appointed by the City Commission and they reviewed the appointee's qualifications and deemed them qualified to be appointed to the Board.

Mr. Haynes said their qualifications were that they would vote for what the City Commission wanted. Mr. Artner responded that it was an unsubstantiated accusation. Mr. Haynes said he was not getting an answer to his question about the Board members qualifications. Mr. Artner asked that him to give Mr. Pinney a chance to answer his question about the hardship.

Attorney Klahr advised that it was a hearing on a matter currently before the Board for a vote. She said it was not necessarily an opportunity for the public to ask questions that were unrelated to the application. She said if any member of the public had a question that they would like to direct to the City or to anyone, they could get information outside of the hearing but the hearing that night was specifically on the application before them. She recommended that the Board consider that its discussion be limited to such.

Mr. Haynes again asked what made the Board qualified to vote on the item. Chair Dangervil said he had already been given an answer to that question.

Mr. Pinney said the hardship as stated in his original presentation and confirmed by Mr. Jones was that there was a lack of available space given the existing playground location and size. He said it would not be an issue if there were enough space to accommodate the entire drive aisle and parking spaces on the parcel because it would meet Code. He said asking the qualifications of the Board members would be appropriate at a City Commission meeting on the night when said Board members were appointed. He said they reviewed applications and discussed prospective appointees every year.

Ms. Neubauer again asked what the hardship was since there were 114 spaces surrounding the playground with 12 handicap spaces. She said there never seemed to be overflow at the park. She said it became apparent that the purpose was to generate money for the City. She said she frequented the library and has had birthday parties at the community center many times. She referenced a yellow line shown on the site plan, pointed out that it bordered the sidewalk next to the playground area and commented about the possibility of someone playing and a ball entering the parking area. She said the cars should be kept away from children that were playing and the sidewalk they walked on.

Chair Dangervil closed Public Discussion.

In reference to safety issues, Mr. Chitepu clarified, for the record, that when the item was reviewed by the DRC, he said it was discussed that there would be wheel stops and landscaping between the sidewalk and the parking stalls to prevent vehicles from going towards the playground.

ROLL CALL: Mr. Laffey, Yes; Mr. Schweitzer, Absent; Ms. Lore, Yes; Mr. Artner, Yes; Mr. Dangervil, No. The motion passed with a 3-1 vote.

3) **GENERAL DISCUSSION**

There being no further business, the meeting was adjourned at 7:22 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Chad Dangervil, Chair