



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

**Tuesday, August 13, 2019
6:30 PM**

City of Margate
Municipal Building

City Commission

Mayor Anthony N. Caggiano
Vice Mayor Tommy Ruzzano
Antonio V. Arserio
Arlene R. Schwartz
Joanne Simone

City Manager

Cale Curtis

City Attorney

Janette M. Smith, Esq.

City Clerk

Joseph J. Kavanagh

PRESENT:

Chad Dangervil, Chair
Karl Artner, Vice Chair
Julianne Lore, Secretary
Assia Zoubiri
Eddie DeCristofaro

ALSO PRESENT:

Janette M. Sanders, Esq., City Attorney
Robert Massarelli, Director of Development Services
Andrew Pinney, Senior Planner
Alexia Howald, 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 Chad Dangervil at 6:30 p.m. on Tuesday, August 13, 2019. The Pledge of Allegiance was recited followed by a roll call of the Board members.

1) NEW BUSINESS

ID 2019-378

2A) **BA-04-19** VARIANCE REQUEST TO ACQUIRE A LICENSE TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES WITHIN 1,000 FEET OF A DAYCARE.

All those speaking on the item were duly sworn.

Alexia Howald, Associate Planner gave a PowerPoint Presentation explaining the variance application, location, history, code compliance, and variance criteria. She discussed the newly constructed daycare center that is within 454 feet of the vacant where the proposed steakhouse restaurant would like to occupy. Ms. Howald stated that on January 23, 2018 the Development Review Committee provided a conditional approval of two new buildings in Peppertree Plaza, one being the daycare center. She explained that one of the conditions of approval was that the proposed daycare could occupy the new building if a variance was granted by the Board of Adjustment. On March 20, 2018, the Board of Adjustment failed the motion to approve the variance request for the daycare

Development Services Department

901 NW 66th Avenue, Margate, FL 33063 • Phone: (954) 979-6213
www.margatefl.com • dsd@margatefl.com

with a 2-2 vote; the City Commission heard the appeal on May 16, 2018 and overturned the decision. Ms. Howald explained that the petitioner is now seeking relief from Section 3.22, the distance from an establishment that is licensed to sell alcohol or liquor, beer and wine, for consumption on the premises within 1,000 feet of a house of worship, public or private elementary, middle or high school, or childcare center. She explained that the current request does not comply with the zoning code. Ms. Howald stated that the intent of the code is not quite clear and that it can only be assumed that it is to protect the sensitive land uses from the perceived ill-effects which may spread through businesses licensed to sell alcohol or beverages for consumption on premises. She then explained the criteria used to decide a variance according to Section 2.78 of the Margate Zoning Code. Ms. Howald concluded her presentation with the staff recommendation of approval.

Karl Artner, made a general statement in regards to the approval of the daycare center, which in his opinion was a mistake. He said that it is now causing new restaurants an additional headache and cost. Mr. Artner then asked if there was a way to revoke the variance for the daycare, because it does not seem to him that the daycare is open for business. Mr. Dangervil asked the City Attorney, Ms. Janette Smith if this is something that would be conducted with the Commission? Ms. Smith responded that she would have to look into this and get back with the board.

Julianne Lore, asked staff why the daycare was not open as of this time.

Robert Massarelli, Director of Development Services, responded by confirming that a Local Business Tax Receipt was applied for on May 20, 2019 and issued on June 19, 2019, and is presently pending next fiscal year's renewal. He explained that staff went out to the daycare to speak with the owners and confirmed that they are in business.

Eddie DeCristofaro, asked the petitioner what the hours of alcohol sales will be? Mr. Marco Dombrowski, owner, introduced himself and responded that he plans on selling alcohol between 11:00 a.m. and 11:00 p.m. Mr. DeCristofaro then asked staff if they knew the hours that the daycare closes? Mr. Massarelli responded that he did not know.

Mr. Dangervil asked the petitioner if this will be a full liquor bar? Mr. Dombrowski responded "yes".

Ms. Zoubiri, referenced a Walmart with a liquor license that has a daycare next door. She stated that this never affected the children who were dropped off and picked up. Mr. Artner commented that the difference with the Walmart is that it is not for consumption on the premise. He believes that the daycare center was a mistake by the Commission and he is asking to reverse that mistake. Ms. Lore stated that she agrees with Mr. Artner.

Mr. Dangervil asked staff how long has it been since the Golden Corral closed? Staff responded that they have been inactive with the City since September 27, 2017.

Public Comment:

Tommy Ruzzano, 116 East Palm Drive, stated that he voted in favor for the daycare center, explaining that all the larger plazas have a daycare located in them. He stated that he understands that they try to keep alcohol away from the daycare centers, synagogues, and houses of worship, etc... However, if the City is going to continue to move forward, the code will need to be looked at, and that this is a problem that the city can learn from.

Ms. Janette Smith, commented that looking at the code is something that staff will be committed to doing. She explained that she will be sure to keep the board informed as the City moves forward with this. Mr. Artner said that he has been asking for this code to be reviewed and changed for over two-years, saying that the code is flawed from beginning to end. He stated that in his opinion restaurants with bars and liquor stores need to be separated. Mr. Dangervil asked what will happen to the already established businesses or schools once the code is updated. Ms. Smith responded that they will be grandfathered in.

Mr. Richard Zucchini, 380 Lakewood Circle East, agreed that this ordinance must be changed. He then stated that serving alcohol is important to the success of the restaurant and appeals to the board to vote in favor of the variance.

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

MOTION: Due to the 2018 variance approval for the daycare center within the Peppertree Plaza, this has created undue hardship and a competitive disadvantage for the new restaurant owner. The building located at 5650 West Sample Road is prohibited from exercising a previously established use to sell alcoholic beverages for consumption on the premises. The special conditions and circumstances created by this 2018 variance approval by City Commission has created unnecessary hardship which was not self-created by the petitioner. It is assumed that the approval by City Commission has deemed that allowing this particular daycare center to be located within those establishments not to be contrary to the public interest.

ROLL CALL: Mr. DeCristofaro, Yes; Ms. Zoubiri, Yes; Ms. Lore, No; Mr. Artner, Yes; Mr. Dangervil, Yes. The motion passed with a 4-1 vote.

3) **GENERAL DISCUSSION**

Eddie DeCristofaro, welcomed the new business to the City of Margate.

There being no further business, the meeting was adjourned at 6:55 p.m.

Respectfully submitted,

Prepared by Melissa M. Miller

Chad Dangervil, Chair