



**REGULAR MEETING OF
THE BOARD OF ADJUSTMENT
HYBRID VIRTUAL MEETING
<https://us02web.zoom.us/j/89794480562>
MINUTES**

Tuesday, December 7, 2021

6:30 p.m.

City of Margate
City Commission Chambers at City Hall

PRESENT:

Julianne Lore, Chair
Elsa Sanchez, Vice Chair
Joao D. Brandao, Board Member
Joey Ruiz Jr., Board Member

ALSO PRESENT:

Elizabeth Taschereau, Director of Development Services
Nick Noto, Interim City Attorney
Joseph J. Kavanagh, City Clerk
Andrew Pinney, AICP, Senior Planner
Liz Adler, Greenspoon Marder, representing Abundant Life
Senior Pastor Rick Thomas, Abundant Life
Stacy Angier, Principal, Abundant Life Christian Academy

The regular meeting of the Board of Adjustment (BOA) of the City of Margate, having been properly noticed, was called to order at 6:30 p.m. on Tuesday, December 7, 2021, in the City Commission Chambers at City Hall, 5790 Margate Boulevard, Margate, FL 33063. Roll call was taken followed by the recital of the Pledge of Allegiance.

1) APPROVAL OF MINUTES

- A) *ID2021-489*
APPROVAL OF THE MINUTES FROM THE SPECIAL BOARD OF ADJUSTMENT MEETING ON JULY 14, 2020 AND THE MINUTES FROM THE REGULAR BOARD OF ADJUSTMENT MEETING ON SEPTEMBER 1, 2020.

Development Services Department

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

City Manager
Cale Curtis

Interim City Attorney
Weiss Serota Helfman
Cole & Bierman

City Clerk
Joseph J. Kavanagh

Ms. Sanchez made the following motion, seconded by Mr. Brandao:

MOTION: TO APPROVE THE MINUTES AS PRINTED.

ROLL CALL: Ms. Lore – Yes; Ms. Sanchez – Yes; Mr. Brandao – Yes. Mr. Ruiz – Yes. The motion passed with a 4-0 vote.

2) NEW BUSINESS

- B) *ID2021-483*
BA-01-21 APPEAL OF THE ADMINISTRATIVE DECISION TO REQUIRE A SITE PLAN AND ASSOCIATED INFORMATION AS REQUIRED IN SECTION 31-54(B)(1) SUBSECTIONS (A) THROUGH (D) OF THE CODE OF THE CITY OF MARGATE AS IT RELATES TO SOME SPECIAL EXCEPTION REQUIREMENTS FOR ABUNDANT LIFE.

Interim City Attorney Nick Noto introduced the item and outlined the Quasi-Judicial procedures to be followed. He swore in those giving testimony on the item.

Attorney Liz Adler, Greenspoon Marder, presented on behalf of the petitioner, Abundant Life. She shared a *PowerPoint* presentation which is attached to the record. Attorney Adler opened by outlining the location of the subject property, which includes a church, school, and daycare. She explained the plat note on the property does not match the current and historic use of the property, so Abundant Life had submitted a plat note application to amend the note to match the use. She stated the amendment would modify the square footage currently allowed for church use versus school use, but because of changes in the City Code over the years, a special exception is required to name the school as the primary use of the property instead of the church.

Attorney Adler stated in the process for the special exception, Abundant Life is required to submit a site plan and all related documents, including a survey, tree location plan, and site data as indicated in Section 31-54(B)(1). She asserted the process is an expensive undertaking to incur for anyone, especially the church, to incur for a special exception. She explained Abundant Life is requesting an appeal of the administrative determination that the site plan application is required. Attorney Adler acknowledged that the applicant needs to go through the process to apply for a special exception, and stated they are asking for allowance to submit an application for review without the expensive site plan because the property has been in existence for 30 years and the building has been unchanged for 15 years. She noted no immediate changes to the building are planned.

Chair Lore asked the approximate cost of a site plan. Attorney Adler responded that it would vary depending on details but would be a minimum of \$10,000.

Ms. Sanchez asked how much of the space is being used by the school, and how much is being used for the church and other uses. Attorney Adler stated the school primarily takes up the

building, while the church utilizes the auditorium and a few classrooms on Sundays during morning and evening services and choir practices.

Ms. Sanchez clarified that the changes to the school and school rooms had already been made, and the spaces are being used by the school. Attorney Adler confirmed there are no changes proposed to the actual structure of the building, which is the reason for appealing the expense of preparing the site plan to amend the plat note.

Ms. Sanchez asked how long ago the rooms were changed from church use to classrooms. Attorney Adler stated her understanding was that the church and school had shared the property since the opening in 1991. She noted there were some structural changes made about 15 years ago, and since then there have been no changes to the physical structure of the property, and the church has always utilized the auditorium area.

Ms. Sanchez asked if there was a planned increase in the number of students coming into the building. Attorney Adler responded the school intends to remain at the same capacity it has been operating at for the past years, they are just doing a technical update to the plat note so everything that is now on the property is consistent with Code.

Andrew Pinney, City Planner, presented on behalf of City staff. He shared a *PowerPoint* presentation which is attached to the record. Mr. Pinney began with background information on the property, including a location map and zoning. He reviewed a brief timeline of the property. He explained on September 10, 1991, when the applicant opened the property, the CF-1 district permitted schools as a use by right and allowed for religious schools incidental to the church. He continued to review the milestones of the timeline, noting on February 15, 2017, the City Commission adopted Ordinance 2017-1500.626 which limited schools as an accessory use of the church in the CF-1 district.

Mr. Pinney stated the City's definition of accessory use limits it to no more than 25 percent of the square footage of the principal use, which meant adoption of that Ordinance made the existing breakdown of the property legally nonconforming. He explained on March 9, 2021, the City's Development Review Committee (DRC) reviewed a requested plat note to allow 75,000 square feet of private school and 7,000 square feet of daycare on the property. He stated it was at that time that it was determined in order to apply for this plat note, the applicant would be required to apply for a special exception because the principal use of the property was now a private school.

Mr. Pinney reviewed Section 11.3, which describes the permitted uses in the CF-1 district. He pointed to paragraph B, which outlines special exception uses, and read the following for the record:

- (1) *The following uses are authorized upon a finding by the City Commission that a special exception to the article is warranted. The City Commission shall consider all applications for special exception approval pursuant to the procedures and criteria set forth in Chapter 31, Section 31-54 of the Margate Code of Ordinances.*

Mr. Pinney then reviewed the City process for special exception application requirements as outlined in Chapter 31, Section 31-54 of the Margate Code of Ordinances, in detail. He further discussed the City's process for appeal proceedings and the role of the Board of Adjustment in the appeal. He noted there is opportunity for appeal of the Board's decision.

Ms. Sanchez commented on the requirements to apply for a special exception and asked if the requirements other than the site plan had been met. Mr. Pinney stated all of the items referenced were requirements of the site plan, so to this date, no. He noted to be fair to the applicant, they had not yet filed an application. He stated the applicant is disagreeing with staff's interpretation of Code that a site plan is required.

Ms. Sanchez asked for clarification on the applicant's argument as to why a site plan would not be required. Mr. Pinney stated he did not want to speak for the applicant, but it was his understanding the applicant was arguing the building had been there and no changes were proposed.

Ms. Sanchez stated she was looking to determine whether the requirements aside from the site plan have been met. Mr. Pinney referenced the application requirements and the criteria for the Board of Adjustment to make a finding upon, based on the public hearing to review the appeal. He stated further questions would best be addressed to the applicant.

Attorney Adler explained the applicant has not submitted a special exception application yet, and stated they were before the Board on the appeal of the requirement to submit a site plan based on multiple factors, including that the building has been in existence, and they are not proposing any changes, and that they feel the financial hardship on the church to prepare the extensive site plan is unnecessary in order to submit an application for special exception. Attorney Adler explained they planned to submit a survey of the property with the application and noted while they had not yet prepared the application, they anticipate submitting a special exception application that provides the City with all of the information to make a determination that the application meets all of the criteria within the Code for special exception.

Ms. Sanchez asked whether the changes made to the building over time would meet Code requirements and had complete documentation showing inspections were up to date. She stated she wanted to see the difference in not having a site plan and still submitting all of the other information required by Code.

Attorney Adler stated she was not involved in the project when it was approved 15 years ago, but the build-out was approved by the City and it is her understanding is that it went through the process at that point in time. She explained in terms of submitting an application at this time that meets with the Code, it is the applicant's intention to submit documentation including the requisite information for the City Commission to make a determination that all of those elements are complied with. She reiterated that they are hoping just not to have to submit the site plan portion.

Senior Pastor Rick Thomas, Abundant Life, stated no buildings had been made to the exterior of the building since the original site plan. He noted the site plan was lost when the City had a fire. Continuing, Pastor Thomas stated all work done had City permits and inspections, in addition to annual inspections and no additions to the footprint. He explained the only changes had been classrooms added inside. He stated they definitely wanted to make sure the City has everything it requires, but the site plan was unchanged and they did not want to pay for someone to note what had always been there. He added that in checking with architects on the cost, it was closer to \$20,000. He stated the church is in there to help the community.

Chair Lore inquired as to whether the site plan would have been recorded with the City or County. Pastor Thomas responded that they had been checking everywhere and cannot find anything. He noted the church had lost their plans when the roof blew off the building in a hurricane in 2005, and the City suffered a fire in which they lost theirs.

Stacy Angier, Principal, Abundant Life Christian Academy, stated she had been the administrator at the school since 2002 and explained the school serves approximately 500 students currently, and noted 85 to 90 percent are on some type of income-based scholarship. She asserted close to \$40,000 in legal fees had been spent in the process thus far and noted that cost the school a teacher for a year. Ms. Angier stated going through the process to underwrite the cost of a site plan when they are not making any exterior changes. She explained the only changes made since the site plan were to the water drainage system as a result of a City inspection. She discussed inspections made on the property throughout the year and stated they never try to cut corners because they want to provide a safe environment for the kids.

Ms. Angier stated the school does not want to compromise the care provided for the students, and that they also understand the liability of not doing things right. She asserted she does not deny the site plan requirement is part of Code, or that staff had not done their due diligence in telling them they needed to provide it. She stated what she was requesting was an appeal to the process, because the cost it would incur would be a burden. Ms. Angier stated Abundant Life tries to do positive things for the community, adding to it and not taking away from it. She noted they participate in events and serve as volunteers.

Ms. Sanchez stated she knows Abundant Life does a lot of great work for the City and for the children of the City.

Mr. Brandao agreed with the comments from Ms. Sanchez as to how Abundant Life had helped the community. He stated the Board should allow the appeal.

Chair Lore opened the public hearing on the matter.

Richard Zucchini, 380 Lakewood Circle East, stated this application was a perfect example of why the Board of Adjustment exists. He asserted Code cannot predict all circumstances, and a variance was needed in this case. He stated there was not a substantial change of structure or use, which would be the reason for needing a site plan and urged the Board to consider that.

Todd Angier, 1913 NW 79th Terrace, agreed with Mr. Zucchini's comments. He stated this was basically a housekeeping item which could have a significant price tag on it. He referenced the financial hardships of the past year and encouraged support of the appeal.

An online participant attempted to comment but had technical difficulties.

Chair Lore closed the public hearing.

Ms. Sanchez asked whether a special exception could be given without a site plan. Mr. Pinney responded that was the question to be determined by the Board.

Interim City Attorney Noto asked for any ex-parte disclosures from the Board. There were none to disclose. He briefly reframed the question before the Board and the circumstances which had led to the appeal. He noted they were not requesting a variance from the Code, but an appeal of the administrative decision to require the site plan.

Mr. Brandao made the following motion, seconded by Mr. Ruiz:

MOTION: TO REVERSE STAFF'S DECISION BASED ON THE SPECIFIC FACTS AND TESTIMONY HEARD.

ROLL CALL: Ms. Lore – Yes; Ms. Sanchez – Yes; Mr. Brandao – Yes. Mr. Ruiz – Yes. The motion passed with a 4-0 vote.

GENERAL DISCUSSION

Chair Lore welcomed everyone back and encouraged them to stay healthy.

There being no further business to discuss, the meeting was adjourned at 7:16 p.m.

Respectfully submitted,

Transcribed by Crysta Parkinson, Prototype, Inc.



Julianne Lore, Chair

