



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, December 8, 2021 9:00 a.m. - Room 119

Charlotte County Administration Center

18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Board Member:

Steve Vieira, Secretary
William Abbatematteo, Vice-Chair
Larry Fix
Blair McVety, Chair
John Doner

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Stacy Bjordahl, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Diane Clim - Recorder

I. **Call to Order**

Chair McVety called the December 8, 2021 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. **Pledge of Allegiance**

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

III. **Roll Call**

Roll call was taken; a quorum was present.

IV. **Swearing In of Those Giving Testimony**

Diane Clim swore in all persons who wished to provide testimony.

V. **Approval of Minutes**

ACTION: A motion was presented by Mr. Fix and seconded by Mr. Vieira to approve the minutes of September 8, 2021 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VI. **Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the December 8, 2021 Board of Zoning Appeals meeting were submitted.

VII. **Introduction of Staff/Comments**

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on November 23, 2021: SE-21-025, SE-21-026, VAR-21-005, VAR-21-006 and VAR-21-007

Mr. Vieira abstained for the first petition

SE-21-025

Geri Waksler, agent for Harbour Heights Real Estate, Inc., is requesting a special exception to allow an outdoor storage yard for recreational vehicles, boats, and trailers, in the Commercial General (CG) zoning district. The property is located at **2441 & 2449 Broadpoint Drive**, Punta Gorda, and is described as Lots 7-16 and 37-39, Block 31, of the Harbour Heights Subdivision, Section 5, located in Section 15, Township 40 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Geri Waksler, agent for Harbour Heights Real Estate Inc., said she was sworn in. **Ms. Waksler** said the approximate 1 acre site is part of a large commercial area. She said there are businesses in the area with outdoor storage for their vehicles. There will be a type D buffer around the exterior of the site. She said condition number 1 says outdoor storage for recreational vehicles, we would like that change to be for outdoor storage of recreational vehicles, boats and trailers.

Chair McVety opened the meeting to Public Comments.

Public Input

Michael Walsh, who lives in the area, said he was sworn in. **Mr. Walsh** said he is not opposed to the project. His concern is Broadway is a major road and also the gateway to Harbour Heights. He would like to see this be a profitable adventure but he asked if there could be room on the lot for people to pull in with trailers and make sure they can pull in and back around, not back out on to Broadpoint.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Doner. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by William Abbatematteo and seconded by Larry Fix that Petition SE-21-025 be APPROVED based on the Community Development Staff Report dated December 1, 2021, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with six conditions recommended by staff.

Motion was approved with a unanimous vote with the following six conditions:

1. The special exception, as approved by the Board of Zoning Appeals, is to allow the outdoor storage of recreational vehicles, boats and trailers and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, are for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, right-of-way access, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. Outdoor storage of materials or heavy machinery is prohibited.
4. Prior to using the site for outdoor storage, a "Type D" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted around the perimeter of the outdoor storage area along the north, south, east, and west property lines.
5. This Special Exception is granted for a term of three years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
6. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

SE-21-026

Tom Mueller, P.E., agent for Florida Fish & Wildlife Conservation Commission, is requesting a special exception to allow a campground in the Agriculture (AG) zoning district. The property is located at **45751 Bermont Road**, Punta Gorda, and is described as the north half of Section 6, Township 42 South, Range 27 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Floyd Jackson, with FFW in behalf for Tom Mueller, agent for the applicant, said he was sworn in. **Mr. Jackson** said he would be happy to answer any questions.

Mr. Vieira asked how is access from Bermont Road onto the site, going to be secured or maintained? Is there a normal entrance way that identifies the campsite? The people who occupy the campsite, do they have leases to hunt in that area?

Mr. Jackson said to access the site, you come in from Bermont Road. People who have a lease, are aware of the location and entrance. They hunt deer and wild turkey.

Mr. Fix asked if RV's come into the campsite?

Mr. Jackson said yes. They have RV hookup on the property and they stay in their RV's.

Mr. Abbatematteo said this board approved the first 3 phases back in 2019. Are those phases completed?

Mr. Jackson said he believes 2 of those are completed. He thinks they are leased out for a few weeks at a time.

Chair McVety opened the meeting to Public Comments.

Public Input

Eric Lane, who lives in the area, said he was sworn in. Mr. Lane said he has 20 acres on the entrance road for this project and regarding the question for security, there is no security. My trailer that was put on my ranch two years ago, was robbed completely. He lost equipment. Forestry owns the property, they will not let me use that road, but they designate it as non-public. I have cameras out there that show the public driving up and down that road. I asked to use this road for access to my property, but they denied it. They will not let any one on this property, and I am landlocked due to that road. He is against this request because he believes more people might steal his stuff. He said he has one deeded access but it's wetlands. He said there is also an equestrian site back there.

Rebuttal

Mr. Jackson said he is right about the Florida services, they maintain the property. They enter from Bermont Road. The hunters have a place in this area where they take the carcass' to dispose of.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Steve Vieira and seconded by John Doner that Petition SE-21-026 be APPROVED based on the Community Development Staff Report dated December 1, 2021, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with four conditions recommended by staff.

Motion was approved with a 4 to 1 vote with the following four conditions:

(4 members voted yes to approve – Mr. Fix voted no against the approval)

1. The special exception, as approved by the Board of Zoning Appeals, is to allow a campground in the Babcock-Webb Wildlife Management Area, with facilities and improvements, generally as shown on the Site Plans labeled as Exhibits F-1 and F-2 and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The layout of all campsites must be approved through the Site Plan Review process. All campsites must be individually marked and easily identifiable for wayfinding and emergency response as required by Emergency Management. This may include naming of access drives, signage, address signs, or other signage.
3. The Site Plans submitted by the applicant, as part of the petition, are for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but

not limited to Site Plan Review, environmental, emergency management, utilities, ADA compliance, and right-of-way access.

4. Any open burning must comply with Florida Statutes Chapter 590.11, as amended.
5. All exotic plant species, located within or near the campground, must be removed during initial development of the site and maintained on an ongoing basis thereafter.
6. This special exception is granted for a term of five years from the date it receives approval from the Board of Zoning Appeals; however, the special exception shall not expire if the owner commences the proposed development on or before the special exception's term expires.
7. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

VAR-21-005

David Levin, Esq., agent for Elaine Disera, is requesting a variance to reduce the required 35-foot rear yard setback by 22 feet to allow a 13-foot rear yard setback for a swimming pool, in the Manasota Commercial Tourist (MCT) zoning district. The property is located at **1360 Beach Road**, Englewood, and is described as Lot 41, of the Holiday Isle Subdivision, located in Section 01, Township 41 South, Range 19 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

David Levin, Esq., agent for the applicant, said he was sworn in. **Mr. Levin** said the condominium has dissolved. They are all individually owned units. The picture shows this is the only condo where the pool was not constructed. We don't know why. We are just asking for the same amenity everyone else has.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Abbatematteo. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by William Abbatematteo and seconded by Larry Fix that Petition VAR-21-005 be APPROVED based on the Community Development Staff Report dated December 1, 2021, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with four conditions recommended by staff.

Motion was approved with a unanimous vote with the following four conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 35-foot rear yard setback by 22 feet to allow a 13-foot rear yard setback for a swimming pool and pool deck.
2. The future construction of a pool cage shall also be permitted within the footprint of the approved swimming pool and deck, provided all setbacks established by this variance and code requirements are maintained.
3. The variances shall only apply to the proposed swimming pool and pool deck, as shown in the documents submitted with this application.
4. If the proposed swimming pool and pool deck are constructed and at a later date removed or replaced, this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool and pool deck.

VAR-21-006

Julie Bernhardt is requesting a variance to reduce the required 15-foot rear yard setback by 5 feet to allow a 10-foot rear yard setback, to allow an existing swimming pool to remain “as-is”, in the Residential Single-Family-3.5 (RSF-3.5) zoning district. The property is located at **7052 Brandywine Drive**, Englewood, and is described as Lot 63, Block 3752, of the Port Charlotte Subdivision, Section 65, located in Section 12, Township 41 South, Range 20 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Julie Bernhardt, applicant, said she was sworn in. **Ms. Bernhardt** said staff covered everything. She would be happy to answer any questions.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by William Abbatematteo that Petition VAR-21-006 be APPROVED based on the Community Development Staff Report dated December 1, 2021, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with three conditions recommended by staff.

Motion was approved with a unanimous vote with the following three conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 15-foot rear yard setback by 5 feet to allow a 10-foot rear yard setback to allow the existing swimming pool to remain "as-is".
2. The variance shall only apply to the existing swimming pool, as shown in the documents submitted with this application.
3. If the existing swimming pool is removed or replaced, this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool.

VAR-21-007

Joseph and Sherry Orsi are requesting a variance to reduce the required 20-foot rear yard setback by 4 feet to allow a 16-foot rear yard setback for a new single-family residence, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **9145 Santa Lucia Drive**, Port Charlotte, and is described as Lot 6, Block A, of the Santa Lucia Estates Subdivision, located in Section 20, Township 41 South, Range 21 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Vieira asked if we were to approve this, is there a requirement that the owner would have to stabilize that waterway in any way, shape or form before construction?

Mr. Cullinan said during construction they have to keep it from stiling, but there is no requirement for rip rap or seawalls. You can have natural grass and dirt right down to the water's edge.

Mr. Abbatematteo asked about people reclaiming their land under water and **Mr. Cullinan** explained some of the process going through Army Corp and DEP.

Applicant Presentation

Joseph Orsi, applicant, said he was sworn in. **Mr. Orsi** said he agrees with the staff report and will answer any questions. They wanted to get a survey, but it was going to take about 4 months. The owner did not want to wait 4 months before listing the lot.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by William Abbatematteo and seconded by Larry Fix that Petition VAR-21-007 be APPROVED based on the Community Development Staff Report dated December 1, 2021, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with three conditions recommended by staff.

Motion was approved with a unanimous vote with the following three conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 20-foot rear yard setback by 4 feet to allow a 16-foot rear yard setback for a new single-family residence.
2. The variance shall only apply to the proposed single-family residence, as shown in the documents submitted with this application.
3. If the proposed single-family residence is constructed and at a later date removed or replaced, this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the single-family residence.

IX. **Public Comments** –
None

X. **Staff Comments** –
Ms. Nocheck said we have 6 petitions for the January meeting.

XI. **Member Comments** –
None

XII. **Next Meeting**
The next meeting of the Board of Zoning Appeals is scheduled for Wednesday, January 12, 2022 at 9:00 a.m., in Room 119.

There being no further business, the meeting **ADJOURNED** at 11:10 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc


Blair McVety, Chair

Approval Date: 1/12/2022