



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, December 13, 2023 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:**

Blair McVety, Chair  
Steve Vieira, Vice-Chair  
Nichole Beyer, Secretary  
Turner Rouse  
Andrew Filieo (Absent)

### **Staff:**

Shaun Cullinan, Planning/Zoning Official  
Thomas David, Asst. Co. Attorney  
Elizabeth Nocheck, AICP, Sr. Planner  
Kimberly Sargent - Recorder

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### **I. Call to Order**

Chair McVety called the December 13, 2023 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**

Kimberly Sargent 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 November 8, 2023 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 13, 2023 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 28, 2023: SE-23-032, SE-23-033 and VAR-23-024.***

Mrs. Sargent does roll call for Nichole Beyer who is now present for the record.

**SE-23-032**

Robert Berntsson, representative for Punta Gorda Pet Services Corporation, is requesting a special exception to allow a pet boarding business with an outdoor dog run, in the Commercial General (CG) zoning district. The property is located at 16378 Franklin Avenue, in Port Charlotte, and is described as Lots 12 – 14, 17 & 18, Block 1271, of the Port Charlotte Subdivision, Section 35, located in Section 11, Township 40 South, Range 21 East.

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

**Applicant Presentation**

**Robert Berntsson, representative for the applicant, said he was sworn in.** Mr. Berntsson said he accepts Ms. Nocheck as an expert for purposes of this hearing. The staff report was very well done. These types of facilities have national standards that will be followed in the development of the kennel. Talks about barking dogs and can a dog escape, those are rare things. When the facilities are developed in accordance with the guidelines and standards. Talks about the photos, putting screening between the outside cages so the dogs don't actually see one another when they are out there. So, they are less aggressive towards one another. When the dogs in the open area outside they are with human supervision. We believe based on the staff report and the conditions that are proposed and we do accept all those conditions. We originally had some concern about what are understanding of condition number three with regard to the type D buffer and the wall. We intend to put a vinyl fence, solid opaque vinyl fence that will provide that required buffering and we are good with all the conditions. I would like to reserve my time for any potential rebuttal. But we would respectfully request your approval of this special exception.

***Chair McVety opened the meeting to Public Comments.***

**Public Input**

**Craig Benton, said he has been sworn in.** Mr. Benton said I am the owner of the property directly to the east of the chiropractor's office. I've owned that property for 23 years and operated that business for 23 years. I am speaking against granting the special exception and based on the noise and public safety. They are sort of ambiguous on the number of dogs that they are going to put in that facility. They say seventy dogs boarded potentially boarded indoors and outdoors from the hours of 7 am to 7 pm. Along with potentially sixty dogs in doggy day care at one time, that could be potentially one hundred and forty dogs in that place. That is basically running a kennel next door but it's outdoors. It coincides with the same business hours, I have 8:30 am to 6 pm. That is a lot of dog barking, you can put an opaque fence between the pens, they are still going to bark at each other. They are still going to be aggressive through the fence potentially. The noise factor alone of vinyl pvc fence will not adequately in my opinion attenuate any noise. It's going to be an aggravation to our office, in my office it will be constant. We run about one hundred patients plus a day. So, we have a lot of traffic going through and that side may actually keep those dogs stirred up with the noise. Can't help that it's just the nature of the business. They say that there is seventy with kennels only ten have escape proof tops on them. So, the other sixty-eight are potential risk for escaped dogs. I know they have an additional barrier but, dogs are Houdini's they can get out. If they get out you got a public safety issue, you've got a major road on 41 where they could get hit. You have my office; I have a hundred patients a day coming and going. Now my patients are not, I have mobility issues, I have visual disabilities coming in and I have hearing impaired patients. All it takes is one dog to get up in there and scare one of my patients, get in between their legs knock them down and jump on them or even potentially bite one. Then I have a liability issue I didn't have before. The applicant will have a liability issue, I don't know if the county has

one by granting this special exception or not. It is a liability and it's a public safety issue we don't currently have. My opinion the proposed barrier of a vinyl fence will not attenuate the noise issue, it won't attenuate the sound and it won't really prevent dog's from getting out. A dog can jump a six-foot fence, it can dig, it can climb. A dog has a will, it has a way, it will get out. The other issue is we're talking about a special exemption for one for business that really doesn't need it. All they need to do is reconfigure their business plan and their business model and they fit the current zoning. They just make it all indoors and then we have no issue. That's the big issue here is why don't they just comply with the current zoning. My opinion is I will say deny the special exception and let them reconfigure the project to fit the current zoning. There is no reason to jeopardize public safety, impact my business, impact possible property value if I want to sell it down the road, by allowing this exception.

**Mr. Vieira** are you also the owner of lot 16 which sits directly adjacent to the property, it is a vacant parcel now and then the screen shot that I am looking at.

**Mr. Benton** yes, I am 16 and 15.

**Mr. Vieira** you're using it as additional parking for your business.

**Mr. Benton** we use it, we put gravel out there people will park out there. I can't keep them from driving out there. So, it does occasionally be parked on, but we put stone on to keep the grass from growing so I don't have to mow all the time. It's easier and cheaper to maintain. We've been there for 23 years at that facility.

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

#### **Rebuttal**

**Mr. Berntsson** speaks on the code and a dog kennel is an allowed use under CG zoning. It's my professional opinion that the outdoor run is an accessory to that use and is allowed as of right. Discussions with Mr. Cullinan determined that he would require a special exception instead of appealing his decision before this board. We decided to just go forward with the special exception. So, it's just the outside area that requires a special exception.

**Chair McVety** outside dog storage is just the run?

**Mr. Berntsson** the outside dog run.

**Chair McVety** can have the cages outside?

**Mr. Berntsson** they don't intend to have cages outside. Other than where it extends from the inside kennel that allows the dog to go out into the open air. That's got a door between the inside and the outside. They can go from their inside kennel to that outside.

**Chair McVety** but that's allowed without a special exception. We are only here for the dog run.

**Mr. Bertnsson** we didn't get to that specific I would think yes that's part of the operation of the kennel. You typically have an open space so the dog can get some outside space.

**Mr. Cullinan** yes sir, the ability for essentially unfettered indoor outdoor access such as this in my determination it rose above Mr. Berntsson's assertion of accessory. You have an animal clinic, you have something like that yeah, there's probably a fenced in area where they take the dogs out to go to the bathroom. Ninety-nine-point nine percent of the time they're left inside. Given the scale of this and the intent of this as a kennel facility not necessarily as an animal hospital, a veterinary clinic something like that. My determination was due to the scale and the potential impacts that this rose to special exception requirement.

**Chair McVety** I am not sure if you answered my question. The outside cages are they part of the special exception?

**Mr. Cullinan** yes, they are essentially the focus of the special exception.

**Chair McVety** all of the outside activities are special exception or the cages, the dog run, the inside is not?

**Mr. Cullinan** correct, commercial general zoning allows for indoor type uses with very minimal outside. Like I said if you had a veterinary clinic which is allowed and you had a little fenced in area for the dogs to go out to go to the bathroom, collect samples, what ever you need to do. That is one thing. When a good majority of it is the outdoor aspect of that's when it rises to the level of the special exception with the ability of public input. Because it could be more detrimental to the surrounding community.

**Mr. Berntsson** I think the first thing we have to realize is people put more attention into finding a place to board their pet than they do their children's pre-school. This is people's pets are everything to them in this community and other communities. It is the reputation, it's the operation of the facility. You're not going to use a facility that's got 150 dogs running around barking insanely 24 hours a day. That's not what this operation is, this is an operation that if you are going on vacation, out of town, you can have a long term stay if you want your dog or cat to have some stimulation during the day while you're at work. You can drop the animal off before work and pick it up later after work. There are kennels throughout the county today that exist, and you would be hard pressed to go by any one of them and find a lot of noise, a lot of animals running around loose. Because they are operated under standards that are national standards. It's the reputation, any one of the dog owners that you know you can say this kennel is available. If that one doesn't have a good reputation, you're not bringing your animal there. It's the operation, it's the care of the animals while they're there. You can't operate a facility that every day you've got 5 or 10 dogs escaping, nobody is going to come to your facility. Those are just fantasies that don't occur in the operation of a kennel service. The fears that people are concerned about, right on 41 it's no different. There is a kennel on 41 right now, down in the closer to Charlotte Harbor area. There is no incident's that I am aware of, of any animals escaping in that situation. This operation will be run, my clients are under contract to purchase the property, they will close on the property next week. They will personally operate the business. So, I am happy to answer any further questions.

**Mr. Vieira** asks Elizabeth to put up exhibit E1 back up on the screen please. I know it's for illustrated purposes, but I just have a couple of questions. I am looking at it and listened to the concern of the abutting landowner. We are looking at a type D landscape area and we're looking at a concept privacy hedge which is the diagonal lining around the property and then the opaque fence would be behind that towards the building.

**Mr. Berntsson** landscaping will be on the outside of the fence.

**Mr. Vieira** ok and the requirement for that is 10 feet for the hedge or for the barrier and then the fence is behind that correct and then the building. We have those cages between the building and that opaque fence is that how I'm envisioning this?

**Mr. Berntsson** you will have the building, you'll have the outside cage portion from the kennel. You'll have some open area, then you'll have the fence, then you'll have the landscaping and then the property line.

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 Nichole Beyer that Petition SE-23-032 be APPROVED based on the Community Development Staff Report dated December 6, 2023, 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 nine conditions recommended by staff.***

***Motion was approved with a 3-1 vote with the following nine conditions:  
(Mr. Vieira, Mr. McVety and Ms. Beyer voted for the approval; Mr. Rouse voted against)***

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow a pet boarding business with an outdoor dog run and play area 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, is 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. A "Type D" Landscape Buffer with a six-foot-tall sight-obscuring (fully opaque) fence or wall, shall be constructed and planted along the north, west, and east property lines of the portion of the site to be used for the outdoor dog run and play area, as shown on the Concept Plan. The use of chain link fencing as part of the required buffer is prohibited.
4. Any perimeter outdoor lighting shall be directed towards the interior of the property.
5. Dogs shall be permitted to use the outdoor run and play area between the hours of 7:00 AM to 7:00 PM.
6. All building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended.
7. Noise attenuating insulation or other material shall be used in the construction of the kennel building.

8. This Special Exception is granted for a term of three (3) years from the date of 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.
9. 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.

**9:35 Break**

**9:39 Resume**

**SE-23-033**

Geri Waksler, representative for Charlotte Country Day School, Inc., is requesting a special exception to modify an existing special exception (SE-99-55) to allow the expansion of an existing school, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 365 & 407 Orlando Boulevard, Port Charlotte, and is described as Parcel P1 and a portion of Tract C, of the Port Charlotte Subdivision, Section 50, located in Section 02, Township 40 South, Range 22 East.

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

**Applicant Presentation**

**Geri Waksler, representative for the applicant**, passes out documents to the deputy for him to pass out to the members and recorded. **Ms. Waksler** said she was sworn in. **Ms. Waksler** said the school is requesting a special exception for a school in the residential single family 3.5 zoning district. Charlotte prep has operated in Charlotte County since 1996 and at its current location since 2002. It's special exception for this campus was approved in 1999. It currently serves 277 children from pre-school thru middle school with a waiting list. The special exception is required or is requested to allow the school to expand onto a  $\frac{3}{4}$  acre parcel adjacent to the property. That parcel is just to the south, we can go to the next slide. You can see will be adding on, the expansion parcel is being sold to the school by the couple who currently lives and will continue to live immediately adjacent to the property. The expansion parcel will be used for parking and required buffers. I want to make very clear, there is an existing as you look at the site plan you see what looks to be a driveway leading to Donald. The road to the south, that's existing but if you look very carefully what we purpose we show two parking spots. There is no access proposed from this expansion area onto Donald, which is primarily a residential street. They will continue to utilize the two access points off of Orlando as well as the access off of Priscilla that runs through the site. So, there is no access and no additional traffic that would result from this onto that property from the south. The expansion parcel is being purchased and the parking lot is proposed constructed on. It is designed to accommodate planned future expansions of the school including additional classrooms, relocation of an existing pavilion and construction of a gymnasium. Only parking buffers and a small dry stormwater area are purposed on the expansion parcel. All other uses will be located on the existing school site that has an existing special exception for a school. I want to call your attention specifically to page 4 of the staff report. Which says quote "the purposed additional classrooms and gymnasium can be constructed without the request of modification with the original special exception as those are accessory uses and structures to the school and the original special exception did not place limitations on size or quantity of school buildings." Therefore, today's hearing is not about Charlotte Prep continuing to increase its enrollment as is has done gradually, continuously, and respectfully through its 27-year history. Today's hearing is only about whether the construction of the school parking lot on the  $\frac{3}{4}$  acre parcel to the south meets the criteria for a special exception. This board must evaluate for a special exception against three criteria and goes over the slides and explains

to the board. They accept all proposed conditions of approval except would seek a modification to number 6. Which says construction must begin on the site within five years or the special exception will expire. We need to get the special exception in place now, the school can't spend the money to buy the parcel unless they know they can ultimately expand onto it. But the expansion of that parcel won't occur until the gymnasium is built, the parking and the gymnasium they've just started raising money for it is a multi-million-dollar building. We think realistically were probably looking at ten years or potentially up to ten years until you actually see the construction of that gymnasium. So, we would like to have that special exception go for ten years. Which allows us to close knowing that the school has the special exception to close on the parcel. Then also allows sufficient time to raise money and ultimately to build that gymnasium. Other than that, we accept all of the conditions and I do reserve time for rebuttal following the public comment. We request approval of the special exception for a school to add this additional  $\frac{3}{4}$  acre parcel.

***Chair McVety opened the meeting to Public Comments.***

**Public Input**

**Alicia Lackovich, I live on Donald Avenue, says she has been sworn.** I am here to appeal this special exception because it is detrimental to the safety and traffic and well being of the neighborhood. Also, to I don't believe everyone received the notice, it was right after Thanksgiving. A lot of people don't even live in the area sometimes during the holidays and the summer. The gentleman who is selling the property he's only there half the time. So, he is not experiencing the noise all the time. I do think that he's probably going to ultimately sell the property that he lives in now to the school. The thing is, is that the school is a private entity so it's not just for our children. It's for anyone who has the money to provide the children this education. Which I think is fantastic, but I think it's detrimental to this neighborhood and I think that it effects the safety, the traffic, and the well-being. So, with the safety, there is going to be, and I see if myself the cars are running in and out. There are people taking their kids to and running to and then they're going back to work. Then they're coming back in later and there leaving they are in a rush. Our neighborhood means nothing to them, so that's an issue. There is no busing from what I understand, so if we have 200-300 kids each of them could be coming in on their own parent's car. That's 300 times four that's a lot. The lady on the next block said she sees fifteen cars go by an hour. That is not safe for a residential area, this development was designed for low density residential inhabitation. So, we have an issue with traffic the noise and the pollution is going to get worse. I am paying like four to five thousand dollars for taxes and insurance, this is going to deteriorate the value of our properties. There has to be a limit, how big is it going to get. There's properties all around that are available for them to expand. So how big is it going to get, when are we going to stop, when it is going to be about the residents and not about some private company. When is it going to be about the residents? People don't really, they see these little flyers they don't get it. They're not educated in this. Neither am I so now I gotta figure this out and go run around and tell all the people what's happening to there neighborhood. So, with safety cars, people can't ride their bikes, walk their dogs, let their children play in the streets because they gotta be careful these people who are paying high money to have their kids to go over to, are running dropping the kid off, running back to work. I get it but we have to stop it, it has to have a limit, and they want to double it. It's already way too much, there is too much noise, bells, delivery trucks. It's not for a residential area, so ok we have safety, we have traffic and the well-being. How does this benefit the neighborhood? Most kids in this neighborhood don't go to that school. These are for people who can afford to send their kids to a private school. God bless them, that's fantastic but it's too much we have to put a limit on it. If it's going to double, we have a waiting list for five hundred. It's just going to go on and on and on. If this was happening on your street you'd be concerned to. I have nothing against private schools if I had children going to school, I don't even know if I would send them to school these days. There has to be a

limit, I am appealing it and I'm going to continue to inform my neighbors against it. It's not to their benefit. It definitely goes against the three things of the special exception. It's not beneficial to the neighborhood in any way shape or form. They need to move it.

**Female speaker** has not been sworn.

**Mrs. Sargent** swears in speaker.

**Kay Pinkerman, I live on the corner of Pearl and Priscilla.** So, I get it from both directions. They don't stop at the stop signs, they run through them. Twice last week we almost had a near accident. When our neighbor was alive that was using a walker, they literally ran her off the road. One of the neighbors went to the school and even spoke to the principal asking him to speak to the parents about slowing down and paying attention. The neighbor two doors down from me last week almost got hit by a lady she did stop and apologize, because she wasn't paying attention. When they did the revamping and took the drain waters out for a month I had muck in my yard, that nobody informed me about them draining it and it all drained down to go to the lake that sits on the block behind me. It is and it's not right, we're all getting older in our neighborhood. Those people are always in a hurry in the morning, and you say no traffic on Donalda that's the main road. They come down Donalda go down Pearl, go down Priscilla to go in the back entrance. We don't have kids in our neighborhood, we have two kids that I know of that attend that school. Everybody else is brought in, you put five hundred more people in that school. Our traffic in that neighborhood is going to be awful. I just think that they should reconsider it and if they need to build a bigger school then move out someplace. You know I have been there since 1985, I was never informed about them expanding the school or allowing the school. The attorney for them moved out of our neighborhood. She doesn't live in that neighborhood anymore; would she want it in her neighborhood. So, consider the people that have been there when I built that house there was no talk about a school every human being built there. I had two kids, and they didn't go to a private school, they went to a public school. I couldn't afford to send my kids there.

**Anita Douglas** says she was not sworn in.

**Mrs. Sargent** swears in Anita Douglas.

**Anita Douglas, I live on Evans Street with my husband.** The traffic comes down Minerva straight to Evans Street down Evans Street and around to the back on Pearl. Constant barrage every morning, I get it, I had kids. School is great, I have nothing against school, I do have something against people driving like maniacs to get their kids to school. If it was a busing system, it would be different, you can get 30 kids on a bus that's different. But when you have thirty cars coming in to bring thirty kids it's a constant barrage of traffic and if they're going to double it, I can't even imagine. My other complaint is the bell system. It's even on a Sunday, I'm hearing the school bell, Christmas day the school bell. It's like school is in session every day in my neighborhood. It's just a little bit annoying, again I have nothing against school. I think school is great, I wish I could have sent my kids to a private school as well. I wish them the best of luck, but I do wish they would not expand or double. The parking I have no problem with the parking, they need to expand their parking. Another problem I do have is when I go to leave my home and I want to go down Orlando, I can't because there is a whole line of cars waiting to pick up their kids. Ok, well I have to go all the way to Veteran's ya know to go where I need to go instead of being able to go to Peachland because it's just completely blocked. So, I do have my complaints that's about it for me.



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

### **Rebuttal**

**Ms. Waksler** says I was one of the four women who founded the school way back in the mid 1990's. My son who went there from the time he was 3 years old until eighth grade, now has a son that will be starting there in January. So, I take great pride in the school, and it pains me personally to hear some of the experiences some of the surrounding property owners say that their having with traffic and I can assure you that I will speak with the principal and with the director, the board of directors of the school. So, they can take turn to address that. That having been said, expansion of the school in terms of increasing the number of children by increasing the number of buildings on the site is not what's before you today. All of that will happen on the existing school site that has an existing special exception and already allows for that. Now when they do put up new buildings that are going to generate more students. Will they have to address traffic issues, absolutely that will be done during site planning. As Ms. Nocheck testified, but that is not before you today. What is before you today is simply the addition of a  $\frac{3}{4}$  acre parcel where they plan to place a parking area. That will be fully buffered and have no access onto Donaldda. So, as you look at the criteria as you look at the impacts compatible, we know it's consistent with the comp plan. Schools are allowed in the residential, of the low-density residential district which is not just designed for residential. It's designed for residential as you look and think back to that slide, and you should have a copy of it. For other types of uses that you typically find in residential areas. We know it's compatible, because it is going to be completely buffered, it is being sold by the people who live adjacent to it who are fully aware of the use. We also know that it will not create a safety issue. Because the parking lot itself will not be generating any traffic. It will not be generating any kind of significant noise people will come in and park and will leave, probably mostly staff will park there in the morning. The cars will sit all day they will get into their cars and leave in the afternoon. Not through any access to Donaldda. This meets the three criteria for special exception, staff found as much, we presented evidence to support that analysis and that determination. So, we would ask for approval of this special exception for the  $\frac{3}{4}$  acre parcel to allow for the parking lot with all conditions which have been proposed with the exception of number six, which we asked to just have changed from five years to ten years. Because any expansion of the school and the number of students is very far off in the future and will happen gradually and over time.

**Chair McVety** asks Ms. Waksler to ask them to adjust the bell not to go off on days when they are not open.

**Ms. Waksler** I absolutely will, I already made note of that.

Elizabeth Nocheck presented the recommended conditions for the petition.

### **Board Member Comments and Questions**

**Mr. Vieira** there was a comment made about notice to abutters and I know that we put up a 1,000-foot radius where we notify abutters. It's strictly up to those people that are notified as to whether they want to attend or comment on the project. Have we received any comments by email?

**Ms. Nocheck** I did receive a handful of emails basically asking what the proposed special exception was and once I sent them a copy of the application, staff report and they replied that they had no concerns.

**Mr. Vieira** my question about traffic was answered by the applicant's presentation whereas construction starts or commences, we'll be required to have a traffic study done for that construction. I have a concern and I know it's only illustrative concept that we're looking at. But I have concern about security from Priscilla onto the property and whether some sort of a gate will be put there to just to avoid people using that parking lot as a cut through to get through.

**Ms. Waksler** a gate exists there now.

**Mr. Vieira** the comment about waiting for traffic, I live in a neighborhood where there is a elementary school very close to I-75 and we suffer with that same type of problem of waiting in line. The traffic line at the Deep Creek Elementary school actually goes down to I-75 which is almost a mile and a half from the school itself. That's a school board problem, I've called about it, I've inquired about it, it's a department of transportation, it's a gas tax road how they expand those roadways, it's strictly out of the purview I believe what we are here to talk about. One of the things I did do while we were doing the presentation I was listening to the presentation and did some checking and I look at the exhibit that shows the zoning map for the area. I did a quick calculation, if the school wasn't there, there is at least 40 houses that could be built in that area. If I calculate it right, there is actually 48 homes that could actually go on that site. I don't know what 48 homes would bring to the neighborhood. But I think on a limited use basis the way the school operates I think that the overall impact is less than what 48 homes would do to the neighborhood. I feel that site plan review will take care of a lot the issues and again the applicant had stated, and the staff report states we are here to talk about the parking area below. I don't have a problem with the presentation at all.

***ACTION: A motion was presented by Steve Vieira and seconded by Nichole Beyer that Petition SE-23-033 be APPROVED based on the Community Development Staff Report dated December 6, 2023, 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 seven conditions and a term on item number 6 to 10 years is included in that recommended by staff.***

***Motion was approved with a 3-1 vote with the following seven conditions:  
(Mr. McVety. Mr. Vieira and Ms. Beyer voted for approval; Mr. Rouse voted against the approval)***

1. The Special Exception, as approved by the Board of Zoning Appeals, is to modify an existing special exception (SE-99-55) to allow the expansion of an existing school 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, is 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, environmental review, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. A "Type C" buffer shall be constructed and planted along the north, west, and south property lines, as shown on the Concept Plan (Exhibit F), provided by the applicant. The use of chain link fencing as part of the required buffers is prohibited. Final design of the required buffers shall be determined during the Site Plan Review process.

4. An 8-foot-wide perimeter landscape strip with decorative perimeter landscaping or parking lot screening, as applicable, shall be planted along the east property line. Any proposed fencing shall be located behind the required plantings.
5. Any perimeter outdoor lighting shall be directed towards the interior of the property.
6. This Special Exception is granted for a term of ten (10) years from the date of 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. A change in ownership shall not require the modification of the special exception, provided the use of the property remains as an elementary and/or middle school. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**Ms. Nocheck** will label the power point presentation slides that were given by Ms. Waksler as Exhibit I.

**VAR-23-024**

Tekton Builders, Inc., representative for Rita Towles, is requesting a variance to reduce the required 25-foot front yard setback by 5.6 feet to allow a 19.4-foot front yard setback, to allow an existing structure to remain "as-is," in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 5185 Forbes Terrace, Port Charlotte, and is described as Lots 92, 93, and a portion of Lot 94, Block 1700, of the Port Charlotte Subdivision, Section 54, located in Section 33, Township 40 South, Range 21 East.

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

**Mr. Vieira** has on question, the submerged land, how does that figure into any of these calculations.

**Chair McVety** it doesn't.

**Mr. Vieira** what is the ownership of lot 93, Block 1700?

**Ms. Nocheck** that is owned by the property owner requesting this.

**Mr. Cullinan** correct that would be owned by the property owner; they would probably need to get the state trustee deed for the underlying submerged lands. Typically, when land and Mr. McVety you know this well. Typically, when lands go submerged, they become either the property of the state or federal government. But there are allowances if it can be proved that this was originally the owner's lands to be able to get the deeds to those.

**Mr. Vieira** I know it doesn't have any bearing on this because it appears we have the proper amount of property to make this decision. When you look at the survey, it's like holy cow. A lot of stuff has gone on here for twenty years.

**Chair McVety** states this was developed by General Development and Joe normally did the seawalls on the points. So, this was from the beginning, they wanted to make it bigger, but environmentalists stopped them. So, there was a lot of stuff that they drew that never could happen.

**Mr. Rouse** asks about narratives exhibit C-6 it says it's designed for John and Sue McKeon or McCowen. Is this purely for illustrative purposes because the owner is Ms. Towles that's requesting the variance.

**Ms. Nocheck** correct this was the pool permit from 2012, from the previous property owner.

#### **Applicant Presentation**

**Ms. Rita Towles, representative, said she was sworn in.** **Ms. Towles** said for the most part, I need my pool cage. It's a part of life here, I can't be outside, I can't use the pool now. The house is finished, I made the assumption. When I bought the house that there was no new building on it, it's been there forever. I brought my neighbors with me I would have brought more, except that one couple is sick and the other is out of town. There is no objection from anyone. There is another picture in there Elizabeth which shows where the circle is and not a survey. When you drive around that circle you would never know that it's nineteen feet as opposed to twenty-five. It's open land, it's landscaped, I get offers for that land by the way all the time. I don't understand it because the only thing someone could do unless they tried to reclaim it. Would be there's the bonus room right there on that side with the pool on the left. Elizabeth done a good job, it doesn't, I wish we had that other picture I didn't bring it.

**Ms. Nocheck** the picture is in your packets.

**Ms. Towles** it's the one that says property for sale. So, if you look at that you'll see.

**Chair McVety** it's ok ma'am.

**Ms. Towles** I need it, thank you. My contractor is here and what we want to do with this is use the exact same footprint that was there before but build it to code. Because I don't ever want to live through Ian where my house moves again. I was in the house when it hit it. So, we are planning on doing everything with permits legally as it should have been done before. But I can't, I didn't do it thank you.

***Chair McVety opened the meeting to Public Comments.***

#### **Public Input**

**Speaker #1, I have not been sworn in yet.**

**Mrs. Sargent swears in speaker.**

**My name is Joe and I am with Tekton Builders.** We will be the contractor that will be providing the work for Ms. Rita Towles. Right now, as the structure sits, it has been moved from its footers about .4 feet. When it was first surveyed it 19.8 after the storm, she just had the survey done about two months ago. So, it moved about .4 almost feet from its original structure. So, as it currently sits, its not attached to any footers or anything. The only thing that's kinda holding that structure now, she had Alpha Foundations they came out and did the foaming underneath to kind of give it some sort of support. Because as it sit's now that's kinda where, if you could see the building the ways its moved. That's kind of the only thing that's holding that structure above ground or even from it tipping over. So, we would like to build this to the building code that exists now. Do a concrete subfloor and masonry walls and build it to the building code that now exists.

***There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Rouse. 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 Turner Rouse and seconded by Steve Vieira that Petition VAR-23-024 be APPROVED based on the Community Development Staff Report dated December 6, 2023, 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 25-foot front yard setback by 5.6 feet to allow a 19.4-foot front yard setback, to allow an existing structure to remain "as-is".
2. The variance shall only apply to the bonus room structure, as shown in the documents submitted with this application.
3. If the bonus room 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 bonus room structure.

IX. **Public Comments** –  
None

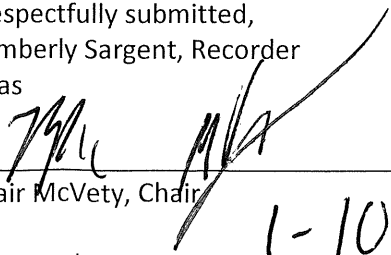
X. **Staff Comments** –  
**Ms. Nocheck** said we have seven petitions for January, six variances and one special exception.

XI. **Member Comments** –  
None

XII. **Next Meeting**  
***The next meeting of the Board of Zoning Appeals is scheduled for Wednesday, January 10, 2024 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:40 a.m.

Respectfully submitted,  
Kimberly Sargent, Recorder  
/kas

  
\_\_\_\_\_  
Blair McVety, Chair

Approval Date: \_\_\_\_\_

1-10-24