



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, June 12, 2024 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

Staff:

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

I. Call to Order

Chair McVety called the June 12, 2024, 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. Vieira and seconded by Mr. Filieo to approve the minutes of May 8, 2024, 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 June 12, 2024, 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 May 28, 2024: SE-24-008, and VAR-24-009.

SE-24-008

Andrey Avdeyuk, representative for Joseph Scharf, is requesting a special exception to allow accessory structures to exceed 3,000-square feet for a property greater than one-half acre in size, to allow a 3,250-square foot addition to the existing 1,925-square foot detached garage, for a total allowance of 5,175-square feet of accessory structures, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 12184 Corporal Circle, in Port Charlotte, and is described as Lots 86 – 90, Block 3006, of the Port Charlotte Subdivision, Section 55, located in Section 07, Township 40 South, Range 21 East. The Parcel ID for subject property is 402107252025.

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

Mr. Vieira said the landscape buffer that's being proposed could you go over where it starts and where it ends again, please for me.

Ms. Nocheck said that staff is recommending where it would be and explains to him and shows him on the tv screens and they both discuss the buffer.

Chair McVety said just an FYI that neighborhood in my opinion has more big garages than any other neighborhood in Charlotte County, that is just my opinion.

Applicant Presentation

Joseph Scharf, applicant, said he was sworn in. **Mr. Scharf** said I live at 12184 Corporal Circle part time. I am usually only here in the wintertime; I just flew down for this hearing today. Just to add she is very thorough on her presentation. I just want to point out that I also own all the property across Corporal Circle, across the canal on the back side and across Davenport to the.

Chair McVety said how many total lots?

Mr. Scharf said twenty-five.

Chair McVety said he has no neighbors.

Mr Scharf said correct.

Chair McVety said so the lots on the other side where the seawall 94, 93, 92, 91 he owns the lots on that side that looks mowed like 22, 21, 20, 19 correct me if I am wrong. Then the ones on the other side of the street like 1 and 2, yes.

Mr. Scharf said yes.

Chair McVety said three and four, five all the ones that look mowed.

Mr. Scharf said yes, and including 95 here on the other side, yeah everything across Corporal Circle almost lot line to lot line.

Chair McVety said no one will be behind him or across from him.

Mr. Scharf said correct, and I am blessed with good neighbors.

Mr. Rouse said the part to analysis says a thirty-two fifty square foot addition and then on the presentation by the contractor it's twenty-nine and some change. Is there a reason there's a difference in the square footage.

Mr. Scharf said I am having trouble hearing.

Mr. Rouse said I will start over, I am just curious on the proposal it says something to the effect, well I'll be precise. That this would be 3,250 square foot addition to the existing 1,925 square foot addition. But later on, the contractor says something like twenty-nine hundred and some change. Is there a reason there's a difference in those.

Mr. Scharf said I am not sure what you stated first is correct.

Mr. Rouse said I AM looking at a narrative exhibit C-1 the contractor said we're seeking a special exception to construct a 2,976 square foot detached garage.

Mr. Scharf said I believe it's 3, 250 square foot yes.

Ms. Nocheck said Mr. Rouse I believe there was inconsistencies between the actual site plans that were submitted and the narrative. So, we went with the large number that was shown on the site plans.

Asst. Co. Atty. Thomas David said that's what is included in clause one of the, 3,250 is in paragraph one.

Chair McVety *opened the meeting to Public Comments.*

Ms. Nocheck said did receive one email from a neighbor who is not able to attend, and they are stating their objection. So, I will distribute this, and we will call it exhibit H.

Public Input

Michael Varner said I have been sworn in. Mr. Varner said I would like to point out again on top of what Mr. Scharf had stated. The additional lots around the area, so in my opinion putting a hedge row he owns all the lots around the area. I don't really see where a hedge row is going to make a big difference, because it's all his land just to point out the first fact.

Chair McVety said sir will you tell us where you live.

Mr. Varner said 12288 Corporal Circle, so if you go out it's right on the point a couple house down from Mr. Joe. We travel this area daily.

Chair McVety said you have to pass his house to get home every day.

Mr. Varner said every day I live there 24/7 my family and I will live and die in that house. So, I have no issues with this also I look at it as a second throat order affect for the county. This additional property will bring in how much more revenue for the county when it comes to taxes. So, in these long range thought of building this it would be in the best thoughts for the county to approve it. Because you can therefore charge Mr. Scharf more and you will gain more revenue than just plain raw property.

Speaker # 2 Lorissa, I'm probably the closest neighbor, we're on 12224 Corporal Circle. Speaker #2 Lorissa said we also don't mind the construction of the shop.

Chair McVety said you're the house at lot 85.

Speaker # 2 Lorissa said yes.

Asst. Co. Atty. Thomas David said can you state your name for the record mam. I heard your first name I didn't catch your last name.

Speaker #2 Lorissa said Lorissa Avdeyuk.

Angela Varner, I live at 12288 Corporal Circle. Mrs. Varner said my husband is correct we pass this property all the time. Mrs. Varner said Mr. Joe keeps all of his properties immaculate whether he's here or not. He maintains all of his lots and when he does have his vehicles there, he is very considerate to try to make sure everybody's got right of way nobody is blocking anybody. Everything is very well maintained but I believe he has the right to protect his property just like the rest of us do. If he's not here year-round and he has stuff stored outside and there's a Hurricane, there will be damage. By providing him this property exception so he can store everything properly we won't have any issues. I believe he has the right to do that.

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.

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 Turner Rouse that Petition SE-24-008 be APPROVED based on the Community Development Staff Report dated June 5, 2024, 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 eight conditions recommended by staff.

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

1. The Special Exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 3,000-square feet for accessory structures on a property greater than one-half acre in size, to construct a 3,250-square foot addition to the existing 1,925-square foot detached garage, for a total allowance of 5,175-square feet of accessory structures, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Site 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 all required building permits.

3. A perimeter landscape strip with a minimum width of 8 feet shall be planted along the north property line, beginning at the western edge of the existing paver driveway. The perimeter landscape strip shall contain a minimum of 1 tree per 35 linear feet and a continuous hedge row. The hedge row shall be a minimum of 24 inches at planting and maintained at a minimum height of 36 inches. A planting plan shall be provided with the building permit for the garage addition.
4. The detached garage shall be constructed to match the materials and colors of the existing single-family residence.
5. The detached garage shall not be used for the purposes of storing any commercial vehicles, construction materials, heavy machinery, or hazardous materials.
6. The construction of any additional accessory structures will require a modification of the Special Exception.
7. 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.
8. 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, may be approved by the Zoning Official.

VAR-24-009

CONTINUED FROM MARCH 8, 2024, BZA AGENDA

Robin Behrens, representative for Elaine Disera, is requesting a variance to modify VAR-21-005, to reduce the required 35-foot rear yard setback by 22 feet to allow a 13-foot rear yard setback, for a tiki hut on the existing pool deck, in the Manasota Commercial Tourist (MCT) zoning district. The property is located at 1360 Beach Road, in Englewood, and is described as Lot 41, of the Holiday Isles Subdivision, located in Section 01, Township 41 South, Range 19 East. The Parcel ID for subject property is 411901476004.

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

Applicant Presentation

Robin Behrens, representative for the applicant, with Southern Cross Tiki. Ms. Behrens said we did go in for this variance for the reason so that she has some shade in her backyard. I hear that the staff you know talking about planting trees, that will take a long time to get a tree big enough to provide shade. As far as the difference between the sails and the tiki hut and what danger that would possess if there is a Hurricane that comes through. You know our tiki huts are made to, a majority of ours got through lan, with the fronds blowing away. Which is what their made to do, the tiki huts get built, there strong, hurricane comes the leaves blow away, which is a good thing. So, I don't think there is a big difference between the damages between one and the other. Ms. Disera is just wanting to be able to sit out by her pool. The sun is getting hotter and hotter every year, she wants to be able to sit out there, sit underneath, drink a coffee, or have a cocktail or have a beer at night by her pool. We're not asking to go any further back than what was granted back in 2021. We're actually trying to stay even less from the back property line. We hope you accept this variance application.

Elaine Distera, property owner of 1360 Beach Road, Englewood. Ms. Distera said I would like to have the shaded area, but I thought it would be a unique way of doing it. Going along with the tropical atmosphere and I went to a company that constructs a well-constructed tiki hut. I've talked to other tiki hut builders, and they didn't even say that I needed a permit which I questioned. When I talked to Southern Cross, they seemed very professional and went thru all the motions and came down and told me exactly what they thought I could do. They said I needed the permits and I found out I needed a variance which I didn't know. So, I just would like to have my backyard, I'm trying to get a tropical thing going and that would add to it. With a well-constructed tiki hut and she stated that there very strong, I guess.

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. Filieo 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

Chair McVety said Shaun will you tell me if right or wrong please. Tiki huts if their built by Indians do not need a permit, tiki huts aren't built by Indians would still need a permit. But all tiki huts still need zoning approval because of location.

Mr. Cullinan said correct, there is an exemption in the Florida building code for the structure but not from the zoning requirements. If they are by certain native American tribes, I forget which tribes they are. They use what's called traditional methods, those don't require a building permit. But they all still need a zoning permit correct and if they are not a member of the approved tribes. Then they must get permits regardless, including meeting Florida building code.

Chair McVety said I just want to put that out there.

Mr. Cullinan said thank you for bringing that up because that is a big misconception is when people say oh Chickee Huts or Tiki Huts or whatever you want to call them don't need permits. The exemption is solely to the building code they still need to get zoning permits.

Asst. Co. Atty. Thomas David said the exemption to the building code is limited to the structure itself. They can't do electric they can't do any of the other stuff.

Mr. Cullinan said that is correct, no plumbing, no electric.

Chair McVety said it has to meet all the set back requirements for zoning it what I'm trying to get at. We had one not long ago where they built it and it was too close to the seawall. I just wanted to bring that out for everyone to know.

ACTION: A motion was presented by Turner Rouse and seconded by Nichole Beyer that Petition VAR-24-009 be APPROVED based on the Community Development Staff Report dated June 5, 2024, 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 five conditions recommended by staff.

Motion was approved with a 3 to 2 vote with the following five conditions:

(Mr. Filieo and Mr. Vieira voted against this approval)

1. The variance, as approved by the Board of Zoning Appeals, is to modify the conditions of approval of VAR-21-005 to reduce the required 35-foot rear yard setback by 22 feet to allow a 13-foot rear yard setback, for a swimming pool, pool deck, and a new tiki hut.
2. The variance shall only apply to the existing swimming pool and pool deck, and proposed tiki hut, as shown in the documents submitted with the VAR-21-005 and VAR-24-009 applications.
3. 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.
4. The overall height of the proposed tiki hut shall not exceed 15 feet.
5. If the swimming pool, pool deck, or tiki hut is removed or replaced, the 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, pool deck, or tiki hut.

IX. Public Comments –

None

X. Staff Comments –

Ms. Nocheck said we have 4 petitions next month and Happy Pride and Father's Day especially to my late father because he was the best. So Happy Father's Day to all of you!

XI. Member Comments –

Chair McVety said I will not be here next month, Steve said he will be here and he's gonna chair.

XII. Next Meeting

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

There being no further business, the meeting **ADJOURNED** at 9:53 a.m.

Respectfully submitted,
Kimberly Sargent, Recorder

/kas


Blair McVety, Chair

Approval Date: July 10, 2024