MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, November 18, 2015 – 9 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)

Members Present
Katherine Ariens, Chair
Joe Tiseo, Vice-Chair
Steve Vieira, Secretary
Blair McVety
Larry Fix

Staff Present
Shaun Cullinan, Zoning Official
Joshua Moye, Assistant Co. Attorney
Ken Quillen, AICP, Planner
Diane Clim, Recorder

I. ***Call to Order***
Chair Ariens called the November 18, 2015 meeting of the Board of Zoning Appeals to order at 9:00 AM.

II. ***Pledge of Allegiance***
Chair Ariens 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 the October 14, 2015 meeting of the Board of Zoning Appeals. Motion passed with a unanimous vote.

VI. ***Disclosure Statements***
Ex-parte forms indicating site visits concerning the petitions being presented before the November 18, 2015 Board of Zoning Appeals meeting were submitted.

VII. ***Introduction of Staff/Comments***
Chair Ariens introduced staff. *Shaun Cullinan, Zoning Official,* read the Zoning rules, *Attorney Josh Moye, and Chair Ariens* 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 3, 2015: VAR-15-007; VAR-15-008; VAR-15-009, and SE-15-007

VAR-15-007

Jeff Tinnon, agent for A&B Auto Repair, is requesting a variance to allow a six-foot high fence in the front yard in a Commercial General (CG) zoning district. The property address is 4322 Duncan Road, Punta Gorda and is described as parcel P-42, located in Section 25, Township 40 South, Range 23 East.

Ken Quillen presented general information and staff findings for the petition.

Mr. Quillen handed out street view pictures from Bing and Google before and after the new fence.

There were questions and discussion about FDOT taking land for expanding U.S. Highway 17.

Applicant Presentation

Jason Downs, agent for A&B Auto Repair, said he was sworn in. Mr. Downs said they agree with the staff report. He did apply for this fence permit but he made a mistake of not highlighting the front part for this fence. Only the rear part was highlighted. If they did not lose property to FDOT for the widening of the road, they would have met their setbacks.

Chair Ariens opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

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

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Joe Tiseo and seconded by Blair McVety that Petition VAR-15-007 be APPROVED based on the Community Development Staff Report dated November 11, 2015, 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 the 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 allow a six-foot high privacy fence in the required front yard as shown on the ***Boundary Survey*** (Exhibit E-1) and ***Fence Plan*** (Exhibit E-2).
2. This variance extends only to the fence located on Parcel 42 (parcel ID # 402325255001) and addressed 4322 Duncan Road.
3. If this fence is at a later date removed, 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.

Petition VAR-15-008 was continued to the December BZA meeting – application incomplete

VAR-15-008

Charles Taylor, agent for Ryan Dunlap, is requesting a variance to reduce the 25-foot front yard setback by ten feet to allow a 15-foot front setback for a pool cage in the Bridgeless Barrier Island (BBI) zoning district. The property address is **16 Palm Drive, Englewood,** and is described as lot 10, of Block D-D, of Palm Island Estates Unit Two Subdivision, located in Sections 28 and 33, Township 41 South, Range 20 East.

VAR-15-009

Attorney Douglas Grissinger, agent for Tim and Sarah Robinson, is requesting a variance to reduce the 25-foot front yard setback by 7.20 feet to allow a 17.80-foot setback for a wood deck in the Bridgeless Barrier Island (BBI) zoning district and the Little Gasparilla Island Zoning District Overlay (LGIZDO). The property is located on Little Gasparilla Island, addressed **8918 Gulf Street, Englewood,** and is described as lot 24, of Block "C", of Gasparilla Shores Subdivision, located in Section 15, Township 42 South, Range 20 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Douglas Grissinger, agent for the applicants, said he was sworn in. Mr. Grissinger said the owner was in error putting the cart before the horse, but did pull permits to make it all correct. Mathew Robinson, the son of the property owners, was in an automobile accident 2 days before the closing of this property. He is disabled and the family made improvements to the property so their son could get up the "stairs". They closed in a front porch and made a new porch with new stairs. There is no traffic, vehicles on this island. Everyone gets around by golf carts. The neighbors have signed letters stating they are okay with this remodeling and not against it not being in the original setback.

The family handed in photographs of the front of the house with the new porch and stairs. The stair climber for the son to use to get up the stairs and letters or emails from surrounding property owners.

Tim Robinson, owner of the property, said he was sworn in. Mr. Robinson said he was sorry he didn't pull the permits before. The original porch was in bad shape and they wanted to replace it. The family did the work but he did hire a contractor to pull the permit for the electrical.

There was discussion about who did what work (regarding the porch, stairs, electrical and mechanical). They installed a new air conditioner system because the previous owners had air conditioners in the windows, but they had a permit for that. He did not realize he was in the setbacks and then was informed by Code Enforcement that he violated the Zoning Code. It took a while to clear this up, because when he applied for the permit, he did not hand in a site plan, this dragged the approval on. Then he was denied because he was in the setbacks and was told to apply for a variance. They live in Tampa and it was taking a long time to get everything done since they are far away. Also since the property is on an island, it takes longer because everyone needs to get there by boat.

The electrical permit was pulled for the few lights that were installed when the porch was replaced. The lights that were up there were old and they replaced them during the work on the porch. An electrician did the electrical work. The owner had called many contractors in the area, but did not receive return calls. He ended up using people he knew in Tampa and none of them pulled the permits before doing the work.

Permits were applied for after the Code violation.

Gerry Robinson, owner of the property, said she was sworn in. Ms. Robinson lives in Tampa. She said they appreciate the Board helping them with this problem. Her son is the one with the disability and she hopes he will be able to continue to come down to this vacation home.

There was discussion about having the porch, roof, lights, and steps installed without permits and no inspections. Also using contractors from up north without County licenses. This Board does not want to send the wrong message, they realize this is televised and not all cases are the same.

Darcie Nicolosi, Code Enforcement Officer, said she was sworn in. Ms. Nicolosi said she was told about this violation from a complaint.

Chair Ariens opened the meeting to Public Hearing.

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 hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions
None

ACTION: A motion was presented by Joe Tiseo and seconded by Steve Vieira that Petition VAR-15-009 be APPROVED based on the Community Development Staff Report dated November 11, 2015, 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 the four conditions recommended by staff.

Motion was approved with a 3 to 2 vote (Ms. Ariens, Mr. McVety and Mr. Fix approved the vote-Mr. Tiseo and Mr. Vieira voted against) with the following four conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to allow a wood deck and roof overhang with a reduced setback of 17.8 feet. This setback shall not apply to any roof overhang.
2. This variance shall only apply to the existing wood deck, roof overhang, and access stairway, as shown on the plans submitted with this application. If these structures are at a later date removed, 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.
3. The access stairway shall be allowed to project further into the front yard and may remain "as is".
4. As a condition of approval of this variance, this wood deck shall remain open and shall not be enclosed with screening, windows or any other barrier of any kind.

Blair McVety recused himself from hearing SE-15-007

SE-15-007
Kevin Natella, agent for John Deere Landscapes, is requesting a special exception to allow an outdoor storage and display of landscaping and irrigation merchandise in the Commercial General (CG) zoning district. The property address is **752 Tamiami Trail, Port Charlotte,** and is described as lots 19, 20, 21, 22 and 23, of Block 1115, of Port Charlotte Sub-section 22 Subdivision, located in Section 01, Township 40 South, Range 21 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation
Kevin Natella, agent for the applicant, said he was sworn in. Mr. Natella said they have been working here but are going through a name change. They will change from John Deer Landscapes to SiteOne Landscape Supply. They would like to utilize greater than 300 s.f. of outdoor storage space for materials. They have PVC pipes, drainage pipes, bag mulch products and things along that line. They would be leasing this property and the landlord will be signing off on any permits.

Mr. Tiseo asked if they would be selling bulk?

Mr. Natella replied no. They operate a fork lift inside the building for bag bulk products, but nothing outside for a fork lift.

Chair Ariens opened the meeting to Public Hearing.

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 hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions
None

ACTION: A motion was presented by Joe Tiseo and seconded by Larry Fix that Petition SE-15-007 be APPROVED based on the Community Development Staff Report dated November 11, 2015, 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 the ten conditions recommended by staff.

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

1. This special exception is to allow an outdoor storage yard, in conjunction with a wholesale landscape and irrigation material supplier, on subject property and extends only to this applicant, their proposed use, and the land included in the site plan and legal description submitted with this application.
2. The area allowed to be used for outdoor storage shall be up to 27 parking spaces and access aisles located to the north and east of building #2. No storage or parking shall be allowed on the Storm-water Management Area or Septic Field.
3. The applicant shall obtain proper permitting, which may include Site Plan Review, for subject property to facilitate compliance with the Land Development Regulations and these conditions of approval of the special exception.
4. The permitting process, which may include Site Plan Review, shall include a Floor Plan of Building #2 with no more than 800 square feet of office space, and with the remainder dedicated only to warehouse space.
5. Prior to use of the outdoor storage yard the applicant shall erect an opaque fence six- to eight-foot high around the entire perimeter of the outdoor storage yard. This fence may not be a chain link fence with slats in the webbing or similar type of fencing.

6. The existing dumpster enclosure shall remain where it is and repaired to bring it into compliance with code, or constructed at a new location approved in permitting.
7. Company vehicles must be parked or stored inside the fenced storage yard, because they are not included in the required off-street parking calculations.
8. The applicant shall obtain all necessary permits and approvals, as applicable to this development, including but not limited to, paving, commercial fence permit, tree removal, landscaping, and invasive plant species removal.
9. If the proposed use is not established within two years of the date of approval of this special exception then this special exception shall expire and be null and void.
10. 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.

IX. ***Public Comments*** **- None**

X. ***Staff Comments*** **–**
Mr. Quillen said there are four petitions for the December 9, 2015 hearing.

XI. ***Member Comments*** **-**
Mr. McVety said he would not be at the December BZA meeting.

XII. ***Next Meeting***
The next meeting of the Board of Zoning Appeals is scheduled for ***Wednesday, December 9, 2015, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 11:17 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc

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Katherine Ariens, Chair

*Approval Date:*_____