

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, December 9, 2009 – 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

Tom Thornberry, *Chairman*
Audrey Seay, *Vice-Chair*
Bob Stout
Bill Truex

Staff Present

Derek Rooney, *Assistant County Attorney*
Nicole C. E. Dozier, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

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- I. **Call to Order**
Chairman Thornberry called the December 9, 2009 meeting of the Board of Zoning Appeals to order at 9:00 a.m.
- II. **Pledge of Allegiance**
Chairman Thornberry led the members and the audience in reciting the Pledge of Allegiance.
- III. **Roll Call**
Roll call was taken; a quorum was present. Mr. Hittson was absent.
- 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 Audrey Seay and seconded by Bill Truex to approve the minutes of the October 14, 2009 meeting of the Board of Zoning Appeals, as written, with a unanimous vote.
- VI. **Disclosure Statements**
Ex-parte forms indicating site visits concerning the petitions being presented before the December 9, 2009 Board of Zoning Appeals meeting were submitted.
- VII. **Introduction of Staff/Comments**
Chairman Thornberry introduced staff. *Nicole Dozier, Zoning Official, Attorney Derek Rooney, and Chair Thornberry* 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 24, 2009: SE-09-17; SE-09-19; and SE-09-21

Petition #SE-09-17

Aspen Dental Management is requesting a special exception to allow two wall signs for a total of 138 square feet in a Commercial General (CG) zoning district. The property address is 1750 Tamiami Trail, Port Charlotte, Florida and is described as Parcel P2-2, in Section 08, Township 40 South, Range 22 East. The property contains +/- 40,000 square feet. A complete legal description and additional information are on file.

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

Applicant Presentation

Amy Johnson, Chandler Signs in Dallas Texas, Agent for the Applicant, said she was sworn in. In June of this year, when Aspen Dental looked for a location for their building, they contacted us. We contact the County and ask for all the code information regarding signage. When we received the information we requested, we were confused because of the street frontage information. We emailed the site plan and elevations. We were told we could have a secondary signage. We discussed the size of the signage. After applying for a building permit, we were denied the signage we had on our plans. That is what brought us to apply for a special exception. She took some pictures of other commercial building signage in the area to show today because some of them have the size signage that we would like, so it is confusing to see some of this signage size that we were denied.

Mr. Thornberry said he believes the Kmart signage comes under different rules because of its setback.

Ms. Dozier replied yes. Plus the majority of them either already received permission from the Board or they are on a corner and the measurement standards are different. There can be a variety of answers as to why there might be various signage throughout the County.

They discussed some of the signage from Panera Bread, Big Lots, Books a Million and Kmart.

Chairman Thornberry 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. Stout moved to close the public hearing, seconded by Mr. Truex. 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

Mrs. Seay said her concern is with the land development regulations, we would like to keep our signs from expanding and becoming larger.

ACTION: *A motion was presented by Bob Stout and seconded by Bill Truex that Petition SE-09-17 be APPROVED based on the Growth Management Staff Report dated November 30, 2009, 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 modification with 3 conditions.*

Motion was approved with a vote of 3 to 1 (Mr.Thornberry, Mr. Trux and Mr. Stout voted yes, Mrs. Seay voted no) with the following conditions:

1. This special exception is to allow two secondary class "A" wall signs only for the westerly tenant space at the locations indicated on the sign drawings submitted with this application and each sign shall be limited to 39 square feet in area.
2. The site plan presented by the applicant as part of the petition is for illustrative purposes only. The approval of this special exception for additional signage does not constitute approval of the architectural design or colors of the building or awnings as shown in the elevation drawings. This new building must comply with all other applicable codes, including Site Plan Review and the Commercial Design Standards.
3. 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, including signage according to code for the other tenant space and the property, may be approved by the Zoning Official.

Petition #SE-09-19

Ricardo and Martha Yanes are requesting a special exception to allow a mobile home, to be used as a residence, in an Agriculture General (AG) zoning district. The property address is 47040 Bermont Road, Punta Gorda, Florida and is described as Parcel P1-21-1, in Section 25, Township 40 South, Range 26 East. The property contains +/- 10 acres. A complete legal description and additional information are on file.

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

Applicant Presentation

Ricardo and Martha Yanes, Applicants, said they were sworn in. **Mr. Yanes** said *Mr. Quillen* explained everything they want to do. This will be for agriculture only. We will plant dragon fruit in that area. This is a type of cactus.

Chairman Thornberry 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. Stout moved to close the public hearing, seconded by Mr. Truex. 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

Mrs. Seay asked the applicants if they agree to the stipulations.

They replied yes.

ACTION: A motion was presented by Audrey Seay and seconded by Bill Truex that Petition SE-09-19 be APPROVED based on the Growth Management Staff Report dated November 30, 2009, 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 modification with 4 conditions.

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

1. The special exception as approved by the Board of Zoning Appeals is for a single mobile home to be used as a residence. All yards and setbacks for the Agriculture General (AG) zoning district shall be observed in the placement of the mobile home.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. Any modification, alteration or revision of this use may require a modification of the special exception.
3. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed mobile home.
4. The mobile home erected on this property must be rated for Zone III wind loads by HUD (or DCA) as evidenced by the Data Plate supplied by the manufacturer.

Petition #SE-09-21

Debra Myers is requesting a special exception to allow a private stable in an Agriculture Estate (AE) zoning district. The property address is 24485 Nova Lane, Port Charlotte Florida and is described as Parcels P1-24 and P1-23-2, located in Section 18, Township 40 South, Range 23 East. The property contains +/- 12 acres. A complete legal description and additional information are on file.

Mr. Quillen said he had a one word change on the staff report and he handed out a new first page of the staff report to the Board and applicant. The one word changed was deleting the word public and adding the word private in the last sentence of the third paragraph of the staff report.

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

Applicant Presentation

Dave and Debra Myers, Applicants, said they were sworn in. **Mrs. Myers** said her daughter rides a horse and they were boarding horses at different places. We have owned the property at Nova Lane since 2001. We lived there a short time after Hurricane Charley took our house in Port Charlotte. We were not happy at other riding places, so we thought if we fixed this up and had our own riding place, it would be safer. That began this process.

Mr. Myers said he has been sick and they thought if they had other horses boarded here, it would help with the cost. The horse trainer lives on site.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Chris Turner, current elected president of the unofficial homeowners association of Suncoast Estates, said Nova Lane and the streets in the area are private streets. I have lived on Nova Lane for 25 years. Myself and other neighbors have taken care of Nova Lane. We cannot force the neighbors to contribute money and/or time to take care of Nova Lane but most of the neighbors do chip in and work together. The Myers have contributed to the road project. There is one neighbor who also has horses, and they do not chip in or help maintain Nova Lane. My concern is if the Myers having more vehicles in this area because of the horses, the increased traffic might have more wear and tear on the road. We do not have a problem with the Myers request for this horse boarding on their property. We are concerned if they move in the future, and the next people do not maintain and keep up what the Myers take care of.

Mr. Thornberry said he understands and feels for the neighbors, because of dealing with private roads.

Mr. D'Aprile, a neighbor, said Mr. & Mrs. Myers are doing a great job. They keep the place clean, they have contributed to the road project, and Mr. Turner is correct about those other neighbors who are not keeping their properties up to what most of us think it should be.

Elvin Cougar, a neighbor, said the Myers are nice people and are doing a very nice job in the neighborhood. He also is concerned about the one neighbor who does not take care of their place.

Steve Kanick, a neighbor, said the Myers are doing a nice job. His concern is the number of horses. He said horses urinate everywhere and it smells like a dump at that site that does not take care of their place. He did think 18 horses might be too many.

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

Rebuttal

Mr. Myers said they have had horses for 25 years. There are different ways of maintaining and boarding horses. The horses they plan on boarding will be full board. There will be a manager on site. The horses will be fed and taken care of. We put a good faith deposit for future road maintenance so the association knows we will take care of our share.

Mrs. Myers said when you have full board, you do not have trailers coming in every day. They may come once or twice a week to see their horse.

Mrs. Seay asked Mr. & Mrs. Myers what they thought of if when they are ready to sell the property, if the special exception would be removed from the site.

Mrs. Myers said she feels that might hurt in the sale of the property.

Mrs. Seay said it might but it would protect the neighbors. The new owners can come back and request a special exception.

Derek Rooney, Asst. Co. Attorney, said if the owners decided to sell, there would still be a stable, but it would be private now not open to the public, but the purchaser could come in and request a special exception.

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

Board Member Comments and Questions

Mrs. Seay asked if we could add the condition that if the owners sell the property, the special exception that we would approve today, would be removed when the property is sold.

Ms. Dozier said this special exception request has 2 parts. One part is to allow a stable and the second part is to allow the stable to be open to the public. She said the condition could be that the stable is still allowed but it would not be open to the public if sold.

Mr. Truex said the staff recommendation is that they agree with the number of horses. I do not. I am not a horse person. I love horses, but I don't know the correct number of horses per acre or stable, although I do not want to change the staff recommendation.

Mr. Rooney said he believes you can add into as another condition, the 25 foot radius for the entrance as part of the adequate access provisions on the special exception.

Mr. Thornberry asked to see the aerial again. He said the site plan shows another pond that the aerial doesn't. His question to staff is the 100 foot setback to the neighbor. The road to get to the rear neighbor, the little guy north of the pond, he must have legal right of way from the Myers because the drive must be on your property, or it's been deeded. How does this guy have access?

Mr. Quillen said both accesses are right along the property line.

There was some discussion about the zoning code, zoning district, land use on the site and what is allowed.

Mr. Thornberry said his concern was once you take away the ponds and the setbacks, you have reduced this site many acres. He was concerned with the amount of horses, but he will not get into it.

ACTION: *A motion was presented by Bill Truex and seconded by Bob Stout that Petition SE-09-21 be APPROVED based on the Growth Management Staff Report dated November 30, 2009, 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 modification with 4 conditions in the staff report and the additional condition of the 25 foot radius.*

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

1. The special exception as approved by the Board of Zoning Appeals is for an existing three-stall horse stable and a new 4,464 square foot 15-stall horse stable (124' by 36') to be used to board no more than 18 horses.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. This parcel may not be reduced to less than 10-acres in size by the owner unless the public use of the riding and boarding stables is discontinued.
3. All yards and setbacks for the proposed stable shall be according to code. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed horse stable.
4. 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.
5. 25 foot radius at the drive entrance.

IX. Public Comments - None

X. Staff Comments

Ken Quillen said the next meeting is Thursday, January 13, 2010. We have 2 applications.

XI. Member Comments – None

XII. Next Meeting

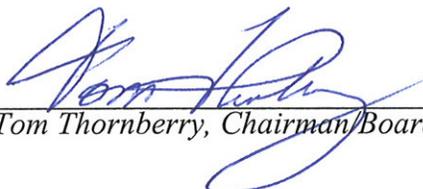
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, January 13, 2010, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:08 a.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: _____