

**MINUTES**  
**CHARLOTTE COUNTY BOARD OF ZONING APPEALS**  
**Wednesday, June 8, 2011 – 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*  
Michael Brown, *Vice-Chairman*  
Bill Truex, *Secretary*  
Katherine Arien  
Blair McVety

**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 June 8, 2011 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.

**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. Brown and seconded by Mr. Truex to approve the minutes of the May 11, 2011 meeting of the Board of Zoning Appeals. Motion was approved with a unanimous vote.**

**VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the June 8, 2011 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 May 24, 2011: VAR-11-03; VAR-11-04; and SE-11-07***

**Petition #VAR-11-03 (WITHDRAWN)**

Julie Ouellette and Diane Yeomans are requesting variances to reduce both side yard setbacks from 10' to 5.5' and 4.6', for an existing non-conforming two-family residence in a Manasota Multifamily-12 (MMF-12) zoning district. The property address is 1270 Gulf Boulevard, Englewood, and is described as lot 1, of block B, of Englewood Shores Subdivision, located in Section 13, Township 41 South, Range 19 East.

Ken Quillen passed out a handout for this site for VAR-11-04. (aerial of site)

**Petition #VAR-11-04**

Philip Eason, agent for Charles and Margaret Scarl, is requesting a variance to allow development of a single-family residence on a 4,250 square foot, substandard size, lot in a Manasota Single-family 5 (MSF-5) zoning district. The property address is 105 Wilhelm Drive, Englewood, and is described as Lot 1 of S. J. Chadwick's Re-subdivision of Lot 10, of Government.Lots 3 and 4, located in Section 19, Township 40 South, Range 24 East.

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

**Applicant Presentation**

**Philip Eason, agent for Charles and Margaret Scarl**, said this is a legal non-conforming lot. He agrees with the staff report and the owners intend to build a single family residence for their own use on this site.

***Chairman Thornberry opened the meeting to Public Hearing.***

**Public Input**

**Grace Amodeo, 17079 O'Hara Drive**, said she has been sworn. She asked about the legal description saying lots 3 and 4 when it is only one lot.

**Mr. Quillen** said that is from the original platting. Government lots 3 and 4 is a large section of land. This area has been subdivided two other times.

***There being no further requests to speak for or against the petition, Mr. Truex 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**

**Mr. Truex** said two things that disturbed him about this – 1) a legally non-conforming lot has to pay to come here to get a variance which I believe the Zoning Director should have been able to grant. If it was created another way, after 1989, it's a whole different ballgame, but here, this should be a Zoning Official decision. 2) the Manasota Sandpiper Key Advisory Board comment about "should be denied". I don't know if they are prepared to buy the lot, but that disturbs me as well. I just want this on the record.

**Mr. Thornberry** said as far as the Manasota Key Advisory Board, it probably all has to do with procedures. They probably have to put something in writing and on the record and in the file.

**Ms. Dozier, Zoning Official**, said we are currently revising the Code and we will take that into consideration in addition to the Board wanting the Zoning Official to be able to grant the variances for single family residents in the agricultural zoning district as well.

***ACTION: A motion was presented by Bill Truex and seconded by Blair McVety that Petition VAR-11-04 be APPROVED, based on the Growth Management Staff Report dated May 31, 2011, the evidence presented at the hearing, and finding the applicant HAS MET the required criteria for the granting of the variance with 1 condition.***

***Motion was approved with a unanimous vote with the following condition:***

1. This variance, as approved by the Board of Zoning Appeals, is to allow construction of a single-family residence on this existing, legal, non-conforming lot.

### **Petition #SE-11-07**

Shannon Clark, agent for Academy of Little Achievers, is requesting a modification of a previously approved special exception to allow expansion of a preschool, in a Coastal Residential-3.5 (CR-3.5) zoning district. The property address is 4326 and 4344 Pinnacle Street and 4333 Eaglet Road, Charlotte Harbor, and is described as Lots 111, 112, 113, 114, 114A, 118, 119, and 120, of Bennett Subdivision, located in Section 25, Township 40 South, Range 22 East.

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

### **Applicant Presentation**

**Shannon Clark, agent for Academy of Little Achievers**, said she has been sworn in. They are a Florida gold seal school, which means they are held to a higher standard than the average day care and schools in the area. With this proposal, they will have 3 buildings we would be occupying. She handed out a paper showing the age groups of the children, along with how many in each age group. No more than 52 children at any given time. The children get dropped off anywhere from 7:30 a.m. to 11 a.m. – just depends on the needs of the family/work schedule and they get picked up anywhere from 2:30 p.m. to 5:00 p.m. They do not have cars lined up and down the road like at a regular school dropping off and picking up at the same times. They have had a

meeting with the neighbors explaining what they want to do so the neighbors are aware. Most drop offs are on Pinnacle Street. Very few children would get dropped off at Eaglet Road. They would have a circular drive, this way no one needs to back up. Presently, some of the employees park on the lot next to this site. That owner does not mind the school using the lot for the employees to park. They do have enough space on the site, but use the neighbor's lot to keep more room available for drop off.

***Chairman Thornberry opened the meeting to Public Hearing.***

**Public Input**

**Jean Pearson, 4312 Eaglet Road**, said she was sworn in. They do not mind having a day care facility in this third house. They are just concerned about the traffic. Eaglet Road is a very small road. Two cars cannot pass each other on the road. Many of the neighbors walk on this road.

**Andrea Hale, 4319 Eaglet Road**, said she agrees with what Jean said. They do not have a problem with the daycare. They are just concerned about the traffic.

**Grace Amodeo, 17079 O'Hara Road**, said she was sworn in. She is familiar with this street and knows it is a narrow road. She is concerned with the extra traffic.

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

**Board Member Comments and Questions**

**Ms. Ariens** asked Ms. Clark where staff would park if they no longer park in the empty lot next door?

**Ms. Clark** introduced Mike Haines to answer that.

**Mike Haines, 4344 Pinnacle Street**, said he was sworn in. He said their intention is to have the parking done correctly. They still need to go through development review and they will abide by the rules required. They will have a roundabout drive to keep the traffic flowing in one direction. There may be a heritage oak tree that could affect the parking.

There was some discussion about the age of the children in the house on Eaglet Road and how many cars might possibly be on Eaglet Road.

**Venkat Vattikuti, Transportation Planner**, said he has been sworn in. The average household leaves the house 8.1 times per day. Presently, there is about 200 trips per day on Eaglet Road. There will be more with this day care, between 7:30-8:30 a.m. This is why they suggested the circular drive.

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

There was some discussion about the parking on the site and the access to the site from Harborview Blvd. and exiting out onto Harper Ave.

**ACTION: A motion was presented by Blair McVety and seconded by Michael Brown that Petition SE-11-07 be APPROVED based on the Growth Management Staff Report dated May 31, 2011, 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 5 conditions:**

***Motion was unanimously approved with the following conditions:***

1. This special exception, as approved by the Board of Zoning Appeals, is to allow expansion of the existing child care facility to be operated in conformance with all State and County laws and ordinances, including six of the eight standards of subsection 3-9-50.5(a)(B)(2)(e)4, excluding standards numbered 2 and 4.
2. 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.
3. The site plan presented by the applicant, as part of the petition, is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the expanded child care facility, circular driveway, and any required off-street parking.
4. The new circular driveway off of Eaglet Road must be designated a one-way drive with adequate signage to manage traffic circulation as determined during the Site Plan review process.
5. Site Plan review and approval is required, prior to use of the 4333 Eaglet Road property for a child care facility, for construction of the proposed new circular driveway and compliance with off-street parking requirements of code.

IX. **Public Comments** - None

X. **Staff Comments** -

**Derek Rooney, Asst. County Attorney** said he did not prepare any presentations but he did receive a letter on the last special exception. He said this is a good opportunity to explain when this Board gets letters from citizens. He discussed quasi-judicial and decisions based on facts. Being able to cross examine a citizen and what criteria you can consider.

XI. **Member Comments** - None

XII. **Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, July 13, 2011, at 9:00 a.m., in Room 119.***

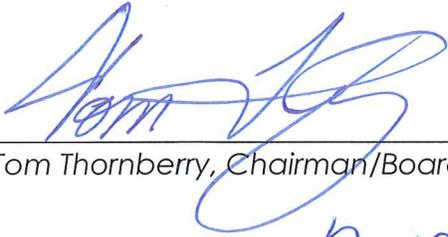
There being no further business, the meeting **ADJOURNED** at 10:30 a.m.

Respectfully submitted,

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Diane Clim, Recorder

/dlc

A handwritten signature in blue ink, appearing to read "Tom Thornberry", written over a horizontal line.

Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: 7-13-11