

**MINUTES**  
**Charlotte County Board of Zoning Appeals**  
**Wednesday, July 13, 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 Ariens  
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 July 13, 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; Mr. Truex was 20 minutes late – arrived 9:20 a.m. - 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. McVety to approve the minutes of the June 8, 2011 meeting of the Board of Zoning Appeals, with a unanimous vote.***

**VI. Disclosure Statements**

*Ex-parte forms indicating site visits concerning the petitions being presented before the July 13, 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 June 28, 2011: VAR-11-05; VAR-11-06; SE-11-08; SE-11-09; and SE-11-10**

**Petition #VAR-11-05**

Dave Childers, agent for David and Marcia Scott, is requesting a variance to increase the maximum height permitted for a fence in a front yard from 4' to 6' for a driveway gate and 5' for two support columns, in a Residential Single Family 3.5 (RSF-3.5) zoning district. The property address is 9800 NW Gasparilla Pass Boulevard, Boca Grande, and is described as lot 49, of Gulf Shore North Subdivision, Sub-section 4, located in Section 27, Township 42 South, Range 20 East.

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

**Applicant Presentation**

**Dave Childers, agent for David and Marcia Scott, represented the applicant. Mr. Childers** handed out some pictures of the gate and the neighbor's similar gate/entrance. He said in 2008, a variance was applied for a 6' column for the house next door. This is similar to what they are asking for. He explained the column and gate for this applicant. This is for security and an added enhancement to the home and neighborhood.

**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. Brown 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 Blair McVety and seconded by Michael Brown that Petition VAR-11-05 be APPROVED based on the Growth Management Staff Report dated July 5, 2011, the evidence presented at the hearing, and finding the applicant HAS MET the required criteria for the granting of the variance subject to the 3 conditions.**

**Motion was unanimously approved (4-0 Mr. Truex was absent) with the following conditions:**

1. This variance as approved by the Board of Zoning Appeals is to allow two architectural columns, up to five feet in height, and one architectural gate, up to six feet in height, within the front yard as shown on the plans and drawings submitted with this application.

2. All necessary permits must be obtained for the structures proposed in this application and if additional fencing is ever to be erected in the front yard all additional fencing must comply with the requirements of code at that time, unless another variance is obtained.
3. This variance extends only to the proposed columns and gate, and shall carry with the structures only. If the gate or columns are ever removed 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.

**Mr. Truex joined the meeting at 9:20 a.m.**

**Petition #VAR-11-06**

Karen McClarren is requesting a variance to reduce the required front yard setback from 25' to 15.1' to allow an addition to an existing single-family residence, in a Residential Single Family 3-5. (RSF-3.5) zoning district. The property address is 9421 Migue Circle, Port Charlotte, and is described as lots 12 and 13, of block 4521, of Port Charlotte Subdivision, Sub-section 81, located in Section 22, Township 41 South, Range 21 East.

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

**Applicant Presentation**

**Karen McClarren, represented herself and family. Ms. McClarren** said she is here to answer any questions.

**Mr. Thornberry** said this is quite an addition.

**Ms. McClarren** said her daughter owns the home and they reside with her. The addition also includes extending the bedroom for their son, who also lives with them.

**Mr. Thornberry** said the 3400 s.f. addition is for a residence?

**Ms. McClarren** said that is mostly a garage. She said the addition is only 1593 s.f.

**Mr. Thornberry** said so 1600 s.f. is air conditioned space as an addition to your home and the other 1800 s.f. is the garage.

**Mr. McVety** said there are a lot of vehicles on the lot, are they going into the garage?

**Ms. McClarren** said they do have a lot of vehicles. The intention is to put some in the garage. She said Code enforcement has been at their home. They have complied with everything they were asked to do. She said they removed the dual wheels off the box truck. They do have a business. They repair in other people's homes. It is an applicant business. We do not do repairs in our home.

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

**Public Input**

**Michael Haymans, Esq.** said he represents the South Gulf Cove Homeowners Association. **Mr. Haymans** asked Ms. McClarren some questions.

**Mr. Haymans** asked if they receive appliance parts at your home?

**Ms. McClarren** said yes.

**Mr. Haymans** asked if they have employees come to the home before going out to work?

**Ms. McClarren** said no.

**Mr. Haymans** asked how many employees do you have?

**Ms. McClarren** said her husband and son go out and do the repairs. Her daughter works in the office with her at the house.

**Mr. Haymans** asked how many people live in the home?

**Ms. McClarren** said 4.

**Mr. Haymans** asked how many will live in the home after the addition?

**Ms. McClarren** said the 4 of them.

**Mr. Haymans** asked if they have been sited from Code Enforcement for having the business activity at the home?

**Ms. McClarren** said no.

**Mr. Haymans** asked if code has sited them for any activity at the home?

**Ms. McClarren** said Code came out because of a box truck, which is their storage facility. We took wheels off because of the dual wheels. It is still the same truck.

**Mr. Haymans** said there is a garage on the home, correct?

**Ms. McClarren** said yes, it is a garage. A portion of that garage is the office to answer the phones for the business.

**Mr. Haymans** said he had no other questions for her. He asked the So. Gulf Cove homeowner association residents to stand and approximately 20 people stood up.

**Mr. Haymans** said the reason they are here is the activities at the home and the proposed addition will be incompatible with the neighborhood. This is a deed restricted community and it does have architectural control standards and those standards are an indication of compatibility with the neighborhood. He said there will be testimony

from the neighbors that they do run a business from the home. An architect will testify this garage set up can be converted into another separate residence. This would be a multi-family property in a single family zoning district.

He said they can make an addition to the existing lot/home and it would not change the orientation to the existing home. This is not a unique circumstance. This condition exists for every corner lot. They purchased the lot with the house and then after that, they purchased the lot next door. They are the ones who have chosen to change this orientation. It is a self-created hardship.

**Mr. Haymans** said the Code violation was not only for the dual wheels on the truck, it was for a business run in the residence, also a canopy without a permit.

**Mr. Haymans** called Dennis Curtis to the microphone.

**Dennis Curtis**, President of the South Gulf Cove Homeowners Association, said he reviewed the application for the addition the applicant wants to construct and he said it is not compatible with the neighborhood. He said he has received over 60 some complaints regarding this business and home. Most are complaining about the variance request.

**Stanley Thurber, 14251 Fruitport Circle, in South Gulf Cove**, said he is a member of the architectural review committee with the homeowners association. He is a retired architect. The architectural review board's normal duties are reviewing plans for future construction in South Gulf Cove. He reviewed this addition and felt it was a completely separate living area from the home. This could be sealed off and made a separate living unit.

**Steven McClarren, 9421 Migue Circle, husband to Karen McClarren**, said he applied for a permit to work in the county. He told the realtor this is what they do. They work on appliances, come back to the house, order parts, they get delivered and they go back out to fix the customers appliances. He keeps his house and yard neat and clean.

**Mr. Thornberry** said we are not here for any Code violations. We are only here to listen to the variance/setback request.

**Lola Gardella, 14746 Ingraham St.**, said these folks are running a business out of the house. They even had an ad in the yellow pages with this Migue Circle address.

**Robert Beaulieu, 9322 Migue Circle**, said he has been asked by other residence in the neighborhood who could not attend today's meeting to represent them. They all have invested quite a bit of money into this neighborhood and they believe this is a single family non-commercial neighborhood and want to keep it that way. They do not want a building this size in the neighborhood.

**Robert Diaco, 9402 Migue Circle**, said he is a Michigan resident full time, but does come to this house many times during the year. They understood from their realtor this is not a business area. He has small children and is concerned about the traffic.

**Ed Andrews, 9395 Migue Circle**, said he has seen many people come and go in those trucks during the day also. Just like it's a business. There are deliveries on a daily basis. He does not believe this is compatible for this neighborhood.

**Patricia Schimkus, 9410 Migue Circle**, said she lived in the house across the street from this site. She now rents it out but plans to move back. She would be right across the street from this addition. There is definitely a business running out of this house and it is not allowed. The corner of Migue and Ingerham is a bus stop. This addition is not compatible with anything in this neighborhood.

**Grace Amodeo, 17079 O'Hara Drive**, said she would not like this request/building next to her if she lived there. She feels enough people in the neighborhood have stressed that. She hopes this gets denied.

**Jerril Fortner, 9243 Migue Circle**, said they moved out of North Port to this house and did not want to be by commercial. He does not want a business in his neighborhood.

**Karen McClarren** said the boxes the HOA person saw were dishes from her mother in law. The garage addition is half for the trucks and the other half to tinker with cars. The addition is for them to live there so her daughter can get help paying the taxes and insurance. This way, they will not have that burden on them when they retire. She does get UPS deliveries, but so do everyone else. This addition would look the same as the house. It would not be an eye sore.

**Derek Rooney, Asst. County Attorney**, said this is for the variance but you would need to have a Special Exception to run the business out of the house. They are not here today for any Code violation.

**Mr. Haymans** said there has been continuing testimony about their business. This is not going to be compatible with the neighborhood. When you look over the 7 criteria, they have not overcome the hardship, the incompatible, and they choose to make this expansion. They do not meet the not self-created circumstance.

***There being no further requests to speak for or against the petition, Ms. Ariens 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 from what he sees from his packet, the setbacks will not work.

**Ms. Dozier** said the applicant's proposed certain setbacks but staff recommended the setbacks that are needed.

**Mr. Thornberry** asked if this Board can consider the testimony about the business being run out of the house, even though this petition is just for the variance setback?

**Mr. Rooney** said yes, the testimony regarding the home occupation and particularly from the applicant, can go to criteria's 3, 4 and 7. There has been testimony from both sides of those points. There is an issue outstanding whether there has been any testimony on item #2 and possibly item #5.

***ACTION:*** A motion was presented by Michael Brown and seconded by Bill Truex that Petition VAR-11-06 be DENIED, based on the Growth Management Staff Report dated July 5, 2011, the evidence presented at the hearing, and finding the applicant HAS NOT MET the required criteria, specifically Items 3, 5, and 7, for the granting of the variance.

***Motion was unanimous (5 – 0) to DENY the request.***

#### **Petition #SE-11-08**

Marian Schneider is requesting a special exception to allow a bar, with on-premises consumption of beer and wine, at a resort marina in a Residential Multi-family-Tourist (RMF-T) zoning district. The property address is 12575 Placida Road, Placida, and is described as parcel P20, located in Section 12, Township 42 South, Range 20 East.

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

#### **Applicant Presentation**

**Marion Schneider, applicant,** said she has been sworn in. She has copies of documentation addressing any federal, state and local regulations regarding her property if you want to see it. She said she believes she has met the 6 requirements of the application. Otherwise, she is available for any questions.

**Mr. Truex** said he loves her place. It is a lot of fun to take a kayak out.

***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. Truex moved to close the public hearing, seconded by Ms. Ariens. 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 Bill Truex and seconded by Katherine Ariens that Petition SE-11-08 be APPROVED based on the Growth Management Staff Report dated July 5, 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 3 conditions.

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

1. The special exception, as approved by the Board of Zoning Appeals, is to allow a bar, in conjunction with the existing kayak rental facility, for the sale of beer and wine only, and for on-premises consumption only.
2. The hours of operation shall be from 8:30 am until 4:30 pm only. The site plan presented by the applicant as part of this petition is for illustrative purposes only.
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 may be approved by the Zoning Official.

**Petition #SE-11-09**

Richard Matzko, agent for Charlotte County Utilities, is requesting a special exception to allow an essential service, consisting of a sanitary sewer lift station, in a Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 3437 Westlung Terrace, Port Charlotte, and is described as Lot 13, of block 1339, of Port Charlotte Subdivision, Sub-section 11, located in Section 23, Township 40 South, Range 22 East.

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

**Applicant Presentation**

**Richard Matzko, agent for Charlotte County Utilities**, said he was sworn in.

**Mr. Thornberry** asked about gravity sewers in the area.

**Mr. Matzko** discussed the sewers on the street and green areas.

***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, Ms. Ariens moved to close the public hearing, seconded by Mr. Brown. 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 Bill Truex and seconded by Blair McVety that Petition SE-11-09 be APPROVED based on the Growth Management Staff Report dated July 5, 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 4 conditions.***

**Motion was unanimously (5-0) approved with the following conditions:**

1. This special exception is for an essential service, consisting of a sanitary sewer lift station, and extends only to the land included in the Site Plan and legal description submitted with this application.
2. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes, including landscaping, are applicable to the construction and operation of the proposed sanitary sewer lift station.
3. A minimum type "A" landscape buffer, similar to the approved "Master Landscape Plan" shall be installed for this lift station and continuously maintained as long as the lift station is located on this site.
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.

**Petition #SE-11-10**

Rusty Simmons, agent for Landings at Coral Creek, LLC, is requesting a special exception to allow an outdoor storage yard for boats and recreational vehicles, as an accessory use to the residential development, in a Residential Single family-3.5 (RSF-3.5) zoning district. The property address is 10331, 10341, and 10351 Placida Road, Placida, and is described as Tracts A and B, and Boat Storage Units (BSU) one (1) through twenty-two (22) of The Landings at Coral Creek Subdivision, located in Section -2, Township 42 South, Range 20 East.

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

**Applicant Presentation**

**Rusty Simmons, agent for Landings at Coral Creek, LLC**, said there are two other boat storage areas inside the development. Our plan right now is to let that stay as green space. There will be no parking of any boats or RV units inside the development. This property is not contiguous to the development. There is about 100 yards separating this property from the first building unit in the Landings at Coral Creek. When we purchased this property, we did see that it was calling for boat storage. There has been no design for this boat storage unit. Right now, we are looking for time, to use this for open boat storage and RV parking area, screen off Placida Road and a nice gate and key pad for them to use it. When we, or whoever takes over the development, budgets these boat storage units in at that time, they can be built properly, whatever the design may be at that time.

**Mr. Thornberry** asked Mr. Simmons if he read the staff analysis and conclusion.

**Mr. Simmons** said yes. He feels like the 20 foot tall building would be more of an eye sore than the boats and RV's. We are only talking about screening up to about 8 to 10 foot level, and they are proposing us to build a 20 foot tall shed like type building to park these units in. He said back in 2001 when this project was first started, they only had a conceptual plan, they did not think out this storage project.

**Mr. Truex** said if he remembers correctly, this storage area was part of their sales. He thought it sounded like a good idea, having a covered area for storage. He does not remember any design.

There was some discussion about the original plans, the platted area, and the landscape buffer.

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

**Public Input**

**Paul Scribner, 100 Siesta Road, Rotonda, registered agent for the Placida Harbor Club,** said he is here to speak against this request. They feel the residential nature of this neighborhood is inconsistent with storage of boats and RV's. The petitioner fails on 2 findings to satisfy the needs of staff to meet the conditions of the granting of this special exception. There are 2 other storage properties within a mile of this site, so people can bring their boats to those areas.

**Ruy Villela, 11000 Placida Road,** said this site has been a fiasco from day one. There was supposed to be 7 buildings, 70 feet high. The BCC denied the request. Then it went to court. The court denied it. Then they went back to this plan to have these townhouses. By the time they got to build this development, the market changed and they lost a lot of money. The property looks terrible now. There are purple and green pipes, mounds of dirt, a broken fence, and we have been living with this for the past 15 years. He is against this request.

**Marion Schneider** said there were designated areas for this boat parking, now they want to move it to someone else's back yard and it would be exposed to a highway. Under the condo units, there is storage for 2 cars and a boat.

***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. Thornberry** said he saw an ad for these condos a while back and they took a ride to look at them. The downstairs was not a living area, but there was room for 2 vehicles and maybe a small boat. There is an elevator to take you to the upper floor.

There was some discussion about the landscaping, future development, what was supposed to be here before, and if each storage area could be built individually.

**ACTION:** A motion was presented by Katherine Ariens and seconded by Blair McVety that Petition SE-11-10 be DENIED based on the Growth Management Staff Report dated July 5, 2011, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria, specifically Items 2 and 6, for granting of the requested special exception.

Motion was unanimous (5-0) to DENY the request.

IX. **Public Comments** - None

X. **Staff Comments** -

Mr. Quillen said so far there is only one petition for August.

XI. **Member Comments** - None

XII. **Next Meeting**

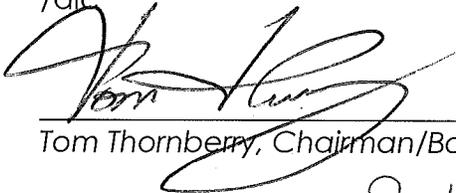
The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, August 10, 2011, at 9:00 a.m., in Room 119.**

There being no further business, the meeting **ADJOURNED** at 12:40 p.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: 8-11-11