

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, December 14, 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*
Shaun Cullinan, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

I. Call to Order

Chairman Thornberry called the December 14, 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. McVety and seconded by Mr. Brown to approve the minutes of the November 9, 2011 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 December 14, 2011 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chairman Thornberry introduced staff. *Shaun Cullinan, Zoning Official, Attorney Derek Rooney, and Chairman 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 29, 2011: VAR-11-08, VAR-11-09; and SE-11-17.

Mr. Thornberry said after hearing VAR-11-08, the Board will hear SE-11-17 because VAR-11-09 is lengthy.

Petition #VAR-11-08

Eric Wetherington, agent for Francis and Marcia Shields, is requesting a variance to reduce the required rear yard setback along a waterway from 20' to 18' for a wood deck and from 20' to zero feet for a wooden stairway, in a Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 126 Danforth Drive, Charlotte Harbor, Florida, and is described as all of Lot 42 and the Southerly one-half of Lot 41, of Suncoast No. 1 Subdivision, located in Section 29, Township 40 South, Range 23 East.

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

Applicant Presentation

Eric Wetherington, agent/applicant, said he agrees with the staff recommendations and conditions.

Ms. Ariens asked why the deck was built before getting this variance?

Mr. Wetherington said the house is rented out. The renters did not want anyone there while they were there. The permit was pulled and the deck was built before any County notices went out, so they were not aware of the setback problem until after the renters left.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Grace Amodeo, 17079 O'Hara Drive, asked if there is a dock at the end of the property because the steps look like they go straight down to the water.

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

None

ACTION: A motion was presented by Michael Brown and seconded by Blair McVety that Petition VAR-11-008 be APPROVED based on the Community Development Staff Report dated December 6, 2011, 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 2 conditions.

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

1. This variance, as approved by the Board of Zoning Appeals, is to reduce the required 20' rear yard setback along the waterway from 20' to 18' for the existing wood deck and to allow a four-foot wide stairway from the deck down to the seawall only as shown and dimensioned on the surveys and site plans submitted with this variance application.
2. This variance extends only to the existing single-family residence and shall carry with these structures only. If the existing residence is ever removed or destroyed 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 #SE-11-17

Mary Olsson is requesting a special exception to allow a 'Home Occupation', consisting of a legal office, in a Residential single-family-3.5 (RSF-3.5) zoning district. The property address is 4720 Pompano Street, Placida, Florida, and is described as Lot 7, of Block I, of the Second Addition to Cape Haze East subdivision, located in Section 03, Township 42 South, Range 20 East.

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

Applicant Presentation

Mary Olsson, applicant, said she would not be having anyone at the house. She services the elderly and special needs and goes to their home. She just wanted to have all this legal. She has read the staff report and agrees with it and the conditions.

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.

Board Member Comments and Questions

None

ACTION: A motion was presented by Blair McVety and seconded by Bill Truex that Petition SE-11-017 be APPROVED based on the Community Development Staff Report dated December 6, 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 3 conditions.

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

1. This special exception shall allow a home occupation, consisting of a legal office only, as an accessory use to the existing single-family residence.
2. This special exception, allowing a home occupation, shall be conducted according to all of the standards and conditions of Section 3-9-79 of the Zoning Ordinance.
3. Any major modifications, or change in the type of home occupation conducted, shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

Petition #VAR-11-09

Mary Sprague, agent for Richard Lake, is requesting seven (7) variances as follows: (a) a variance of 0.1' to reduce the required front yard setback from 30' to 29.9' for an existing two-family residence, (b) a variance of 15.73' to reduce the required rear yard setback from 35' to 19.27' for an existing four-family residence; (c) a variance of 1.5' to reduce the required side yard setback from 10' to 8.5' to allow a roof overhang for a new six-family residence; (d) a variance of 2.5' to reduce the required side yard setback from 10' to 7.5' to allow an addition to an existing four-family residence; (e) a variance of 1.25' to reduce the required side yard setback from 10' to 8.75' to allow a swimming pool; (f) a variance of 10' to reduce both required side yard Buffer Strips from 20' to 10' to allow ten-foot buffer strips for a new six-family residence; and (g) a variance to allow storm-water management areas to be located within the Buffer Strips for a new six-family residence; all to allow a new multifamily residential development, in a Manasota Commercial Tourist (MCT) zoning district. The property address is 2405 North Beach Road, Englewood, Florida, and is described as Lots 24 and 25 of Gulfridge subdivision, located in Section 12, Township 41 South, Range 19 East.

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

Applicant Presentation

Mary Sprague, agent/applicant, said it is important to look at this as an overall project. This overlay code is very hard to work with. This site is zoned MCT but if you are using it as multi-family, you have to go back to the multi-family uses. This is where many of these setback issues came into play. We tried to make a site plan that will meet the intent of the Manasota Key overlay district code. She worked with staff to try and minimize each of the requests. Being multi-family, they need to follow the MMF code.

She brought in a drawing showing if they developed this site for a motel and then the difference using this site as multi-family, which is what they would prefer to do.

She discussed the drawings, each with the different setbacks, buffers and parking requirements.

There was discussion about a walkway to the water, which is next to the site, who uses it, if it's an easement. Also there was discussion about the square footage of the building and rooms and the floor plan.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Jim Clark, representing Pelican Bay Condo Association, adjacent property to this site, said their president ask him to come here to represent them. He said they are not opposed to this request, but the problem they have is, they cannot visualize all of these variance setbacks. They invited Mr. Lake to attend their Board meeting to go over a site plan, but he did not attend. They are concerned if fire trucks or EMS vehicles need to get in there or how they will turn around.

Grace Amodeo said with this density, she hopes there are sewers in this area. She said if they are using the 2050 Comp Plan, that is not approved yet. We are still working on that. She was wondering the height of this proposed building.

Shaun Cullinan, Zoning Official, said 2050 is the County's comprehensive plan (for clarification). Staff is currently reworking the land development regulations of which the Manasota Key overlay code is a part of. Many of the items the variance is being requested for are items that have gotten the county into lawsuits in the past. We are allowing them to request these variances. Regarding the height, whatever DEP determines is the base flood elevation, it will meet Code above that. There is water and sewer in the area.

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

Mr. Thornberry said looking at all the requests, some are just clean ups. A few have to do with the new construction and the non-conforming setbacks. He doesn't have a problem with a roof overhang. He doesn't have a problem with the pool setback. The agent is an engineer and she has to deal with the blueprints.

Mr. Truex said plans make a difference because they are allowed to consider accessibility. He agrees squaring it off makes sense.

There was discussion about the pool being above ground level, the addition being 20 feet above ground level. There is a visual structure effect. Staff requested a little more information to give a better response.

Ms. Sprague said she had not seen the staff report until it was done and handed out. She did not have the floor plan. That was from the architect. She could go with a decrease, but they would prefer any extra room to work with.

There was discussion about the 18 foot walkway to the water, and this process going on to the development review after this variance being approved.

ACTION: A motion was presented by Blair McVety and seconded by Mike Brown that Petition VAR-11-009 be APPROVED based on the Community Development Staff Report dated December 6, 2011, 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 3 conditions.

Motion was approved with a 4 to 1 vote (Mr. Thornberry, Mr. Truex, Mr. Brown and Mr. McVety voted yes, Ms. Ariens voted no) with the following conditions:

1. The variances, as approved by the Board of Zoning Appeals, are as follows:
 - (a) a variance of 10' to reduce both required side yard buffer strips from 20' to 10' to allow ten-foot wide buffer strips for both side yard buffers; and
 - (b) a variance of 0.1' to reduce the required front yard setback from 30' to 29.9' for an existing two-family residence; and
 - (c) a variance of 1.5' to reduce the required side yard setback from 10' to 8.5' to allow a roof overhang for a new multifamily residence; and
 - (d) a variance of 1.25' to reduce the required side yard setback from 10' to 8.75' to allow a swimming pool; and
 - (e) a variance of 2.5' to reduce the required side yard setback from 10' to 7.5' to allow an addition to the existing four-family residence swimming pool; and
 - (f) a variance of 15.73' to reduce the required rear yard setback from 35' to 19.27' for an existing four-family residence; and
 - (g) a variance to allow storm-water management areas to be located within the buffer strips.
2. These variances are intended to allow construction of a new multifamily apartment building, which is a permitted use, in addition to the existing two-family and four-family buildings located on subject property.
3. These variances apply only to the existing two-family and four-family residences and shall carry with these structures and the proposed multifamily apartment building, if constructed, only. If the existing residences are ever removed or destroyed 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.

IX. Public Comments - None

X. Staff Comments -

Derek Rooney, Asst. Co. Attorney said there are no petitions for the January meeting, but we have the Election of Officers for January. It can be done today.

Mr. Brown moved Mr. Thornberry be elected to remain Chairman, second by Mr. Truex.

Mr. Truex moved Mr. Brown be elected to remain Vice-Chairman, second by Mr. McVety.

Mr. Truex moved Ms. Ariens be elected to Secretary, second by Mr. McVety.

Mr. Truex made a motion to approve Mr. Thornberry as Chairman, Mr. Brown as Vice-Chairman and Ms. Ariens are Secretary, seconded by Mr. McVety and approved with a unanimous vote.

XI. Member Comments – None

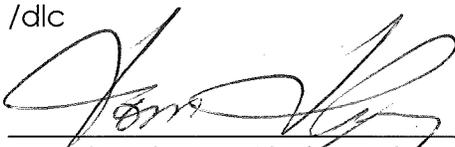
XII. Next Meeting

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, February 8, 2012, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:30 a.m.

Respectfully submitted,

Diane Clim, Recorder
/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date:

February 8 2012