MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, February 13, 2013 – 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, Vice-Chair
Steve Vieira, Secretary
Blair McVety
Joe Tiseo
Larry Fix

Staff Present
Ty Harris, *Assistant County Attorney*
Joshua Moye, *Assistant County Attorney*
Shaun Cullinan, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

I. *Call to Order*
Vice-Chair Ariens called the February 13, 2013 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. *Pledge of Allegiance*
Vice-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. McVety and seconded by Mr. Vieira to approve the minutes of the December 12, 2012 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 February 13, 2013 Board of Zoning Appeals meeting were submitted.

VII. *Introduction of Staff/Comments*
Vice-Chair Ariens introduced staff. *Zoning Official Shaun Cullinan, Attorney Ty Harris, and Vice-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 January 29, 2013: VAR-13-001 and SE-13-001

VAR-13-001

Warren Hope, agent for George Fuchs, is requesting a variance to reduce the required 10' rear yard setback by 2.5' to allow a 7.5' rear setback for a shed in a Residential Single Family 3.5 (RSF-3.5) zoning district. The property address is 9454 Prospect Avenue, Englewood, Florida and is described as Lot 23 of block 3430 of Port Charlotte Subdivision, Sub-section 69, located in Sections 03, Township 41 South, Range 20 East.

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

Applicant Presentation

Robert Berntsson, Esq., BIGW Law, agent for the applicant, said he was sworn in. Mr. Berntsson handed out a copy of the county deed releasing the easement for the shed which was done in December of 2012, a copy of the property appraiser records and a copy of the sales contract for the subject property. **Mr. Berntsson** said you cannot tell where the rear property line is from the picture. The waterway is 12 feet beyond the rear property line, making the shed 19.5' to the waterway. Both the Zoning Department and Plans Examiner review back in 1999 failed the application for a permit for the shed because it was within the 20' wide canal maintenance easement. That has now been released. He discussed the criteria for this application. 14 years ago a shed was built without a permit. There have been no incidents in 14 years. This has come forward because of the sale of this property.

Shaun Cullinan, Zoning Official, said there are many unique properties in Charlotte County, this site is not unique. The front setback for a house is 25'. This owner chose to set the house back 33'. He could have had the house closer up front, leaving more room in the rear. The owner originally came in for a permit. His permit was not approved. He built the shed anyway. This shed was never inspected after being built.

There was very lengthy discussion about the rear setback from the property, from the easement, the process of the shed permit, the property line/setback if the canal was dredged, natural waterways, and manmade waterways.

Vice-Chair Ariens opened the meeting to Public Hearing.

Public Input

Don Massolio, Realtor, 280 Miami Ave., Venice, said he was sworn in. He said when the owner came to him to list the property for sale, he did his due-diligence and checked on permits at that address. There was an expired permit for the shed. They spoke with the Permitting Department and reopened the permit so they could finish it correctly. A building inspector came out and then they realized the easement issue. The inspector said some roof repairs were needed. That was fixed. The shed was re-inspected and passed. He then went on line and printed out the permit for the shed.

Mr. Cullinan said he believes there was a glitch. The permit was never originally issued, but somehow it was renewed, then the County took the permit back. It was never completely reviewed and issued from the beginning.

Mr. Massolio asked if this permit is revoked, why is it that he just printed it off the website and was not notified this was in error?

Mr. Cullinan said the Building Dept. handles that. Mr. Massolio would have to contact them.

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

Mr. Berntsson said there is a good faith buyer who wants to buy a piece of property. His real estate agent in good faith does everything they can to protect the buyer. They present a contract. Now he finds out a permit is revoked. The staff presentation did not bring that up today. Everyone's made mistakes and the purchaser is here. They want to move forward and correct this.

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 Steve Vieira that Petition VAR-13-001 be APPROVED based on the Community Development Staff Report dated February 5, 2013, 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 vote of 4 to 1 (Ms. Ariens) with the following three conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to allow the existing shed to remain "as is".
2. This variance extends only to the shed which is the subject of this variance request and shall carry with this structure only. If the shed is ever removed, destroyed or replaced, 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. All building permit issues shall be resolved.

SE-13-001
Maury Denneler, agent for Richard Anderson, is requesting a special exception to allow a mini-warehouse in a Commercial General (CG) zoning district. The property address is 25450 and 25460 Fortran Drive, Punta Gorda, Florida, and is described as Lots 8 and 9 of Block "A" of Charlotte Commercial Center Subdivision, located in Section 17, Township 41 South, Range 23 East.

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

Applicant Presentation
Maury Denneler, ABS Engineering, Agent for the applicant, said he was sworn in. Mr. Denneler said they agree with the staff report. In the process of the application, staff said they would rather see 2 buildings instead of one. One of the reasons for the agreement of a second building, it allows for more visual open space.

Vice-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. Vieira moved to close the public hearing, seconded by Mr. Tiseo. 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 SE-13-001 be APPROVED based on the Community Development Staff Report dated February 5, 2013, 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 5 conditions.

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

1. The special exception as approved by the Board of Zoning Appeals is to allow a mini-warehouse facility, with large units and large over-head doors, for indoor storage only.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application.
3. The *Site Plan* submitted by the applicant as part of the petition is for illustrative purposes only. A different building configuration or multiple buildings may be permitted by the Zoning Official. All permitting procedures and codes are

applicable to the construction and operation of this mini-warehouse facility, including *Commercial Design Standards* and *Site Plan Review* and approval.

4. Outdoor storage shall not be permitted.
5. 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 is one petition for the March BZA hearing on March 13, 2013.

XI. *Member Comments* –

Mr. McVety said he would not be attending the March hearing.

Ms. Ariens said she is opening the floor for Elections.

Mr. Vieira nominated Katherine Ariens for Chair, second by Mr. Tiseo.
The Board voted 5-0 to elect Katherine Ariens as Chair.

Mr. Vieira nominated Blair McVety for Vice-Chair, second by Ms. Ariens.
The Board voted 5-0 to elect Blair McVety as Vice-Chair.

Mr. McVety nominated Steve Vieira for Secretary, second by Ms. Ariens.
The Board voted 5-0 to elect Steve Vieira as Secretary.

XII. *Next Meeting*

The next meeting of the Board of Zoning Appeals is scheduled for ***Wednesday, March 13, 2013, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 11:07 a.m.

Respectfully submitted,

Diane Clim, Recorder
/dlc

Katherine Ariens

Katherine Ariens, Vice-Chair

Approval Date: 3-13-13