**MINUTES**
**CHARLOTTE COUNTY BOARD OF ZONING APPEALS**
**Wednesday, August 12, 2015 – 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, Chair
Joe Tiseo, Vice-Chair
Steve Vieira, Secretary
Blair McVety
Larry Fix

**Staff Present**
Shaun Cullinan, Zoning Official
Joshua Moye, Assistant Co. Attorney
Ken Quillen, AICP, Planner
Diane Clim, Recorder

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I. ***Call to Order***
*Chair Ariens* called the August 12, 2015 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. ***Pledge of Allegiance***
*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. Fix and seconded by Mr. Tiseo to approve the minutes of the June 10, 2015 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 August 12, 2015 Board of Zoning Appeals meeting were submitted.

VII. ***Introduction of Staff/Comments***
*Chair Ariens* introduced staff. *Shaun Cullinan, Zoning Official,* read the Zoning rules, *Attorney Josh Moye, and 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 July 28, 2015: VAR-15-005; SE-15-004, and SE-15-005***

**The applicant was not present at 9:00 a.m., so they moved on to the 2nd and 3rd petitions. The applicant at 11:45 a.m. was not present, the Board moved to continue this petition to the September 9, 2015 9:00 a.m. hearing.**

**VAR-15-005**

Harold Murbarger is requesting a variance to reduce the required 7.5 foot side yard setback by 4.9 feet to allow a 2.6 foot side setback for a screen enclosure and to reduce the required 25 foot front yard setback by 0.2 feet to allow a 24.8 foot front setback for an existing single family residence, in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 26310 Madagascar Road, Deep Creek, and is described as lot one of block 811 of Punta Gorda Isles Subdivision, Sub-section 23, all located in Section 16, township 40 South, Range 23 East.

***ACTION: A motion was presented by Blair McVety and seconded by Larry Fix that Petition VAR-15-005 be CONTINUED to the September 9, 2015 9:00 a.m. hearing, because the applicant was not present.***

***Motion was approved with a unanimous vote.***

**SE-15-004**

Stephen and Kimberly Gunn is requesting a special exception to allow a Home Occupation, consisting of the boarding and breeding of 12 finger monkeys, in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is **396 Barger Drive, Port Charlotte**, and is described as lots 16 and 17 of block 1095 of Port Charlotte Subdivision, Sub-section 22, all located in Section 01, Township 40 South, Range 21 East.

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

There was some discussion about the monkey's being a pet or exotic animals. Also some discussion about odors and noise.

**Applicant Presentation**

**Stephen Gunn, applicant, said he was sworn in. Mr. Gunn** said he had a document to hand out to the Board (Mr. Quillen labeled it Exhibit I). **Mr. Gunn** said they keep pet Marmoset and Tamarin monkeys because they are quiet, clean and very small. They love humans, they don't take up much space, and they decided to breed them since many people would like one. They would not have clients at the house. They would meet them somewhere. He brought a video which showed how small the monkeys are (fully grown). They have a website and many people email to ask about the monkeys. Once they know someone is very familiar with this type of monkey, knows how to feed them and take care of them, then they would consider selling a monkey. They care for the monkeys very much and do not want to sell to anyone who does not understand

them or know how to handle this type of monkey. He said you can smell a dog in the house more than these monkeys.

There was a lot of discussion about how vocal these monkeys are, if they make noise, have any smells, having a breeding business in the house, how many times a year they breed, and the neighborhood.

**Shaun Cullinan, Zoning Official,** said staff did talk to animal control regarding this type of animal.

***Chair Ariens opened the meeting to Public Hearing.***

**Public Input**

**Jeff Stevens, 18522 Fort Smith Circle,** said he was sworn in. **Mr. Stevens** said he owns a lot in the area and was concerned if the home business might devalue his lot.

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

There was more discussion about how many monkey offspring each pair would have and how many times a year, trying to determine how many might be in the house at one time. Many monkeys do not breed every year and many times the babies don't live long.

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

**Board Member Comments and Questions**

There was more discussion. The State does not have a limit of how many monkeys you can have in the house. Mr. Gunn said he does not want more than 12 adult monkeys. The off spring will be sold within 3 months.

***ACTION: A motion was presented by Steve Vieira and seconded by Blair McVety that Petition SE-15-004 be APPROVED based on the Community Development Staff Report dated August 5, 2015, 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 six conditions recommended by staff, with condition #1 to be changed to say no more than 12 adult monkeys and the babies are gone within 3 months..***

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

1. This special exception shall allow a home occupation, consisting of the boarding and breeding of no more than 12 adult Marmoset or Cotton Top Tamarin monkeys (six breeding pairs) only as an accessory use to the existing single-family residence. Any offspring shall be removed from subject property within three months of birth.

2. The monkeys shall be kept in appropriate cages on the lanai or inside the home and there shall not be any outdoor kennel or cages associated with this home occupation.
3. Detailed records shall be kept permanently for each monkey ever kept at this residence, including but not limited to: name, address, contact information of date and whom the animal was acquired from; condition of animal upon arrival; species; how animals are identified (e.g. tags, names, tattoos, microchip, etc.); birth dates; date of sale and contact information on who takes an animal; date deceased if applicable; and a photograph of the animal. These records shall be made available to Charlotte County Animal Control Officers upon request.
4. Inspections shall be allowed by Charlotte County Animal Control Officers without notice or in response to a complaint.
5. This special exception, allowing a home occupation, shall be conducted according to these conditions as well as all of the standards and conditions of ***Section 3-9-74*** of the Land Development Regulations, as amended.
6. 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.

**SE-15-005**

Roberta Bond-Kadlec is requesting a special exception to allow a Home Occupation, consisting of a counseling service, in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is **5602 Oakview Lane, Punta Gorda**, and is described as lots 22 and 23 of block "A", of Allapatchee Shores Subdivision, all located in Section 28, Township 41 South, Range 23 East.

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

**Applicant Presentation**

**Roberta Bond-Kadlec, applicant, said she was sworn in. Ms. Bond-Kadlec** said she is a licensed counselor and primarily, a client will come in, spend up to one hour, and maybe she might see 2 or 3 a day, but not every day of the week. She does not see anyone on Saturday or Sunday (unless there is an emergency) and would like the hours of 9 to 5 to see clients.

There was discussion about how many years Ms. Bond-Kadlec was a counselor. She has a background also as a nurse. If her clients might be ex-con's. She does screen people on the phone, she does not want to put herself or the neighborhood at risk. She does not have group sessions.

***Chair Ariens opened the meeting to Public Hearing.***

**Public Input**

**Richard Jennings, 3146 Hickory Court, said he was sworn in. Mr. Jennings** gave a handout to the Board (Mr. Quillen Labeled it Exhibit F). He said he was concerned about the parking in the area and on the swales.

**Janice Yorton, 3120 Hickory Court, said she was sworn in. Ms. Yorton** said she has many concerns. She saw Ms. Bond-Kadlec's ad which says she counsels anger management, alcohol abuse, drug use, and troubled individuals. These are people with serious problems. She is against this counseling in her neighborhood.

**Rebuttal**

**Ms. Bond-Kadlec** said her clients are not violent. She does screen them before having them over. She gave an example of a young lady who's parents did not want her, she was depressed and needed help. Today she is doing much better. She wants to help people and many people need someone to talk to. She does not even get paid from all of them. It depends on their income and needs.

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

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

**Katherine Ariens reopened the public hearing because one speaker wanted to make another comment.**

**Janice Yorton** said one of the Board members said waste management, Postal workers, and others are in the neighborhoods and we don't really know who they are. She said those people are bonded. They do services for people. They are not invited into our neighborhood. She is inviting by doing her business. That is my concern.

**Board Member Comments and Questions**

No further questions

***ACTION: A motion was presented by Blair McVety and seconded by Larry Fix that Petition SE-15-005 be APPROVED based on the Community Development Staff Report dated August 5, 2015, 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 four conditions recommended by staff with conditions added to limit the time to 9 a.m. to 6 pm, no more than 2 cars in the driveway and no on street parking.***

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

1. This special exception shall allow a home occupation consisting of professional counseling services only as an accessory use to the existing single-family residence.

2. This special exception, allowing a home occupation, shall be conducted according to these conditions as well as all of the standards and conditions of ***Section 3-9-74*** of the Land Development Regulations, as amended. However, the hour of operation shall be limited to between 9:00 AM to 6:00 PM.

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.

4. Customers or clients must park in the driveway of subject property and shall not park on the street while visiting the residence for counseling sessions.

**IX.** ***Public Comments*** **- None**

**X.** ***Staff Comments*** **–**
**Mr. Quillen** said there are four petitions for September 9, 2015.

**XI.** ***Member Comments*** **-**
**Mr. McVety** said there are a lot of people who are ex-con's and they are very nice. Many are contractors, construction workers, pool people. You can't judge someone from their past.

**Ms. Ariens** said she was concerned about security for the Board. She wanted to know what are the rules/security program for this room. She said they have never been briefed on the security process.

**Mr. Cullinan** said staff has been discussing that and they cannot present that to this Board on camera, but they can be contacted and given the rules/procedure.

**Josh Moye, Asst. Co. Attorney** said that probably won't happen on TV, but they will have contact with the Board members. He will check into that.

**XII.** ***Next Meeting***
*The next meeting of the Board of Zoning Appeals is scheduled for* ***Wednesday, September 9, 2015, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 11:50 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc

Katherine Ariens

*Katherine Ariens, Chair/Board of Zoning Appeals*

*Approval Date:* September 9, 2015