MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, April 9, 2014 – 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
Steve Vieira, Vice-Chair
Joe Tiseo, Secretary
Blair McVety
Larry Fix

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

I. *Call to Order*
Chair Ariens called the April 9, 2014 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. Tiseo and seconded by Mr. Fix to approve the minutes of the March 12, 2014 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 April 9, 2014 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 March 25, 2014: VAR-14-003, SE-13-011 and SE-14-001

VAR-14-003

Mary Sprague, agent for Riskall, LLC, is requesting a variance to increase the maximum fence height allowed in a rear yard from 6' to 8', in the Residential Single Family 3.5 (RSF-3.5) zoning district. The property address is 8000 – 8048 Weyers Court, Englewood, and is described as lots 1, 2, 3, 17, 18, 19 and Tract "C", of Hidden Waters Subdivision located in Section 09, Township 41 South, Range 20 East.

Applicant Presentation

Mary Sprague, agent for the applicant, said she was sworn in. **Ms. Sprague** said she does live in this subdivision. She submitted a picture of the fence they plan on putting in which was labeled Exhibit G. Ms. Sprague explained why she felt that they do meet the criteria for the variance.

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. Tiseo 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.

Board Member Comments and Questions

None

ACTION: A motion was presented by Joe Tiseo and seconded by Blair McVety that Petition VAR-14-003 be APPROVED based on the Community Development Staff Report dated April 1, 2014, 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 the 3 conditions recommended by staff.

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

1. The variance, as approved by the Board of Zoning Appeals, is to increase the permitted fence height from 6' to 8' in the rear yards of lots 1, 2, 3, 17, 18, 19 and Tract C for a solid or sight-obscuring fence. This fence shall be setback a minimum of five feet from the rear lot lines of each of these lots.
2. The owner shall obtain a fence permit and the fence shall be constructed according to all applicable building codes, including wind loads and flood prevention standards.
3. This variance shall be for the proposed fence only and all other future principal and accessory structures shall comply with all County codes and ordinances in effect at that time.

SE-13-011

John Lange, agent for Charlotte Harbor Sails, LLC, is requesting a special exception to allow outdoor display and sales of watercraft in the Charlotte Harbor Mixed Use (MU) zoning district. The property address is 4760 Tamiami Trail, Port Charlotte, and is described as part of the vacated alley and lots 2, 3, 4, 5 and 6, of block 28, of Charlotte Harbor Subdivision, located in Section 25, Township 40 South, Range 22 East.

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

Applicant Presentation

John and Marge Lange, applicants, said they were sworn in. **Mr. Lange** said staff did a good job with this and he doesn't have any new information to add. He would be happy to answer any questions.

Mr. Tiseo asked about putting the watercraft on the site. There is an easement in the front and not a lot of room in front of the building to put items.

There was a lot of discussion about where the property line is, the storm water retention pond in the front, the sidewalk and where any items could be displayed.

Chair Ariens opened the meeting to Public Hearing.

Public Input

Geri Waksler, 160 Herons Cove Dr., said she has been sworn in. **Ms. Waksler** suggested putting the shrubbery along the sides of the building with no landscaping in the front and put the kayaks/paddleboats leaning up against the doorway.

There being no further requests to speak for or against the petition, Mr. Tiseo 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 Joe Tiseo and seconded by Steve Vieira that Petition SE-13-011 be APPROVED based on the Community Development Staff Report dated April 1, 2014, 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 recommended by staff.

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 outdoor display of watercraft for sale only as indicated on the ***Site Plan*** (Exhibit C) submitted by the applicant, except that the three boats located in front of the building shall not be permitted.

2. This special exception extends only to the land included in the Boundary Survey and legal description submitted with this application.
3. No more than four kayaks, or similar small watercraft, may be located in front of the building and outside the "boat display area".
4. The applicant, or property owner, shall plant and maintain at least three new two-inch shade trees and maintain at least 12 tree points on subject property; also, a 73-foot long hedge shall be planted and maintained along the front property line until subject property is ever redeveloped. These landscaping requirements shall be completed within one year of the date of approval of this special exception.
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.

SE-14-001

Rob Carter, agent for MEDCYL Services, Ltd, is requesting a special exception to allow an outdoor storage tank in the Industrial Light (IL) zoning district. The property address is 3769 Acline Road, Punta Gorda, and is described as the Common Area of the Acline Center Condominium Association, Inc., located in Section 28, Township 41 South, Range 23 East.

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

Mr. Tiseo had questions about the permit for the slab.

Applicant Presentation

Rob Carter, agent for MEDCYL Services, Ltd., said he was sworn in. **Mr. Carter** said they are a medical oxygen manufacturing company under FDA guidelines, department of Health approved. When they originally expanded into Charlotte County, (Naples to Sarasota home health care coverage) they originally picked this site (among others) because there was the availability to go on the side of the building with the tank. When they applied for their slab permit, the diagram showed a tank going onto this slab. If anything else was needed, they were not told and it was not their intent to do anything illegal or without a permit. He has placed approximately 120 of these tanks in the past 19 years, five others in the State of Florida and he never needed a special exception for any of them. When he was notified five months ago for having the tank on this site, he did not know anything was wrong with Zoning. He has four employees who live in Charlotte County who should be working at this site, but they are driving to Plant City to work there. He pays for their gas going back and forth. He serves 1,650 patients a month out of this facility. He cannot get a certificate of occupancy to use this building because of this situation. The oxygen comes from the others sites to take care of the patients in this area. He explained how the oxygen tank works and the safety with it.

There was discussion about the review of the slab. Mr. Carter said he had many discussions with the permitting department about what was going on to the slab. Discussion was held about how the tank was bolted to the slab, the safety of the oxygen in the tank, and how it releases oxygen.

Objector Status

Geri Waksler, Esq. represented two neighbors across the street. Ms. Waksler said she was sworn in. She handed out documents from Orange County California. She said she is representing the two neighbors across the street from the site. She wants them to come up and explain what they see.

Benji Dees, who lives at 3850 Acline Road, said he was sworn in. Mr. Dees said this is across the street from this site. Besides it being an eyesore, the noise factor is annoying. The semi-truck that comes in frequently makes noise backing up. The headlights shine into our property. When the pressure release goes off, it is in the middle of the night and they can hear it. He is against this tank on this site.

Christina Davis, who lives at 3700 Acline Road, said she was sworn in. Ms. Davis said she has lived there 17 years, before the building across the street was built. The noise is a huge concern. They have a large berm in the front of their property to block the view, but they can still see the tank from their front porch.

Ms. Waksler discussed the criteria for a special exception and felt all the criteria was not met. The Orange Co. documents are from the National Fire Protection Association publication. She read about oxygen in the atmosphere and other quotes. She could not find Florida's requirements for bulk liquid oxygen for storage tanks but wanted to refer to the Orange County documents. That county has an entire set of regulations on how these tanks should be installed.

There was discussion about the IL zoning across from the AE zoning across the street. What is allowed in IL zoning by right and by special exception.

Mr. Carter said he wants to be a good neighbor. He can make a call and have the truck come during different hours, not late at night so they don't make a lot of noise or have lights shining into the yards across the street. He was not familiar with this issue at this site. He said his largest customer Lincare, was a tenant in this building, so it worked out. Lincare on site kept liquid oxygen in a van, as well between 700 and 1,000 high pressure cylinders. This was never an objection. Lincare is not there anymore, but no one said anything about what they had. This tank is very safe.

There was discussion about regulations for the tank, leaks, values, internal safety of the tank, release of pressure, and how the tank is built.

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. Tiseo 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.

Board Member Comments and Questions
None

ACTION: A motion was presented by Blair McVety and seconded by Larry Fix that Petition SE-14-001 be APPROVED based on the Community Development Staff Report dated April 1, 2014, 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 and an additional fifth condition as stated below.

Motion was approved with a vote of 4 to 1 with the following five conditions:

1. The special exception as approved by the Board of Zoning Appeals is for a single outdoor oxygen storage tank as indicated on the Site Plans submitted with this application.
2. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed oxygen storage tank.
3. The applicant shall place and maintain "**No Smoking**" signs as required by code.
4. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. Any modification, alteration or revision of this use may require a modification of the special exception.
5. The delivery of oxygen to the storage tank shall be limited to between the hours of 7:00 AM to 6:00 PM.

Members Ariens, Vieira, McVety and Fix voted yes, Member Tiseo voted no.

IX. *Public Comments* - None

X. *Staff Comments* –
Mr. Cullinan said there are three petitions for April regarding lift stations.

XI. *Member Comments* – None

XII. *Next Meeting*
The next meeting of the Board of Zoning Appeals is scheduled for ***Wednesday, May 14, 2014, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 1:30 p.m.

Respectfully submitted,

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Diane Clim, Recorder
/dlc

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Katherine Ariens, Chair

Approval Date: _____